

ON 11/28/2018

By /s/ Mia Marlowe  
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12 limited liability company

13  
14 SUPERIOR COURT OF CALIFORNIA

15 COUNTY OF SAN MATEO

16 SIX4THREE, LLC, a Delaware limited  
17 liability company,

18 Plaintiff,

19 v.

20 FACEBOOK, INC., et al.,

21 Defendants.

) Case No. CIV 533328

)  
) **Assigned for all purposes to Hon. V.**  
) **Raymond Swope, Dept. 23**

) **DECLARATION OF DAVID S.**  
) **GODKIN IN SUPPORT OF**  
) **PLAINTIFF'S RESPONSE TO**  
) **DEFENDANTS' NOVEMBER 26, 2018**  
) **EX PARTE APPLICATION FOR**  
) **SANCTIONS**

22  
23 Department: 23  
24 Judge: Honorable V. Raymond Swope  
25 Filing Date: April 10, 2015  
26 Trial Date: April 25, 2019

1 I, David S. Godkin, declare:

2 1. I am an attorney at law and a member of the Law Offices of Birnbaum &  
3 Godkin, LLP, counsel for plaintiff Six4Three, LLC ("643") in the above-captioned action. I  
4 make this Declaration from personal knowledge, and if called to testify, I could and would  
5 competently testify thereto.

6 2. I represent Styleform IT, a Swedish software developer, in its action against  
7 Facebook, Mark Zuckerberg, Christopher Cox, Javier Olivan, Samuel Lessin, Michael Vernal  
8 and Ilya Sukhar in the Superior Court of California, San Francisco County. *Styleform IT v.*  
9 *Facebook, et al*, San Francisco Superior Court, Case No. CGC-18-571075. Attached hereto as  
10 **Exhibit 1** is a true and correct copy of the complaint filed by Styleform IT in San Francisco  
11 County Superior Court on November 2, 2018.

12 3. Attached hereto as **Exhibit 2** is a true and correct copy of the Fifth Amended  
13 Complaint filed by Six4Three in the instant action.

14 4. Attached hereto as **Exhibit 3** is a true and correct copy of the letter I received  
15 from Durie Tangri on November 13, 2018.

16 5. Attached hereto as **Exhibit 4** is a true and correct copy of the letter I sent to  
17 Durie Tangri on November 15, 2018.

18 6. Attached hereto as **Exhibit 5** is a true and correct copy of the email I received  
19 from the Court on November 19, 2018 at 6:25PM Eastern Standard Time setting a briefing  
20 schedule for Facebook's ex parte application for sanctions.

21  
22 I declare under the penalty of perjury under the laws of the State of California that the  
23 foregoing is true and correct.

24 Executed November 28, 2018 at Boston, Massachusetts.

25  
26   
27 David S. Godkin

# **EXHIBIT 1**

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22 a Swedish sole proprietorship

ENDORSED  
FILED  
Superior Court of California  
County of San Francisco

NOV 02 2018

CLERK OF THE COURT  
BY: BOWMAN LIU  
Deputy Clerk

BY FAX  
ONE LEGAL LLC

SUPERIOR COURT OF CALIFORNIA  
COUNTY OF SAN FRANCISCO

STYLEFORM IT, a Swedish sole  
proprietorship;

Plaintiff,

v.

FACEBOOK, INC., a Delaware corporation;  
FACEBOOK IRELAND LTD., an Irish  
limited liability company;  
MARK ZUCKERBERG, an individual;  
CHRISTOPHER COX, an individual;  
JAVIER OLIVAN, an individual;  
SAMUEL LESSIN, an individual;  
MICHAEL VERNAL, an individual;  
ILYA SUKHAR, an individual; and  
DOES 1 through 50, inclusive,

Defendants.

) Case No.

)

) **COMPLAINT OF PLAINTIFF**  
) **STYLEFORM IT FOR:**

)

- ) 1. BREACH OF CONTRACT  
) 2. CONCEALMENT  
) 3. INTENTIONAL  
) MISREPRESENTATION  
) 4. NEGLIGENT MISREPRESENTATION  
) 5. INTENTIONAL INTERFERENCE  
) WITH CONTRACT  
) 6. INTENTIONAL INTERFERENCE  
) WITH PROSPECTIVE ECONOMIC  
) RELATIONS  
) 7. NEGLIGENT INTERFERENCE WITH  
) PROSPECTIVE ECONOMIC  
) RELATIONS  
) 8. VIOLATION OF BUSINESS AND

CGC-18-571075



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PROFESSIONS CODE §§ 17500  
9. VIOLATION OF BUSINESS AND  
PROFESSIONS CODE §§ 16720  
10. VIOLATION OF BUSINESS AND  
PROFESSIONS CODE §§ 17200

**JURY TRIAL DEMANDED**

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1 Plaintiff, Styleform IT (“Styleform” or “Plaintiff”), alleges as follows based on  
2 information and belief, except where based on personal knowledge:

3 **I. OVERVIEW OF THE FACEBOOK PLATFORM EXTORTION SCHEME**

4 1. This matter concerns a series of fraudulent and anti-competitive schemes designed  
5 and effectuated by Defendant Facebook, Inc.’s (“Facebook”) Chief Executive Officer Mark  
6 Zuckerberg (“Zuckerberg”), with the intention of deliberately misleading tens of thousands of  
7 software companies, including Styleform, (collectively, “Developers”) into developing  
8 applications that generated substantial user growth and revenues for Facebook in order to help it  
9 grow from 20 million active users in 2007 to approximately 2.23 billion by the second quarter of  
10 2018.

11 2. From May 2007 until at least May 2015, Facebook executed a series of malicious  
12 anti-competitive bait-and-switch schemes in which it engaged in a campaign of  
13 misrepresentations, misleading partial disclosures, and false inducements to Developers,  
14 including Styleform, to induce them to invest capital and resources in building applications on  
15 Facebook’s operating system, Facebook Platform (“Facebook Platform Extortion Scheme”).  
16 These misrepresentations and misleading partial disclosures were made in the form of official  
17 statements, announcements, videos and policies announced by Zuckerberg and other Facebook  
18 executives and were posted by Facebook on its official website, as well as training sessions,  
19 conferences, hackathons and other events. In sum and substance, it was thereby represented that  
20 Developers would have the opportunity, *inter alia*, to build a business and distribute their  
21 applications organically, to compete on a level and fair playing field, and to access the APIs  
22 offered in Facebook Platform on terms equal to all other Developers and to Facebook itself.  
23 These representations and misleading partial disclosures around equal access and a level playing  
24 field were made repeatedly over seven years in private and public settings, such as official press  
25 releases and announcements on Facebook’s website, Developer training sessions managed by  
26 Facebook employees, and conferences, such as Facebook’s annual Developer conference, F8.

27 3. These misrepresentations and misleading partial disclosures were directed at  
28 Developers, including Styleform, were widely known in the Developer community, and were

1 intended by Defendants to be relied on by Developers, including Styleform. Styleform relied  
2 upon these misrepresentations and misleading partial disclosures when deciding whether to build  
3 its business on Facebook Platform.

4 4. These misrepresentations and misleading partial disclosures fraudulently induced  
5 tens of thousands of Developers, including Styleform, to enter into identical adhesion contracts  
6 with Facebook that placed a host of costly obligations and conditions on Developers in exchange  
7 for access to Facebook Platform's software APIs (known as the "Graph API," "Open Graph," or  
8 "Social Graph"). Access to the Graph API enabled Developers to build more useful applications  
9 that generated increased user engagement and revenues for both Developers and Facebook while  
10 giving consumers a choice as to which companies would meet their needs for various products  
11 and services. They also offered the opportunity for Developers to grow their applications  
12 organically due to features Facebook offered that made Facebook users prospective customers of  
13 Developer applications without requiring that the Developer purchase advertisements. This  
14 organic growth Facebook promised Developers on its Platform could be described as the Internet-  
15 equivalent of word-of-mouth business.

16 5. However, Facebook at no time provided access to the Graph API on an equal  
17 basis, but rather offered large Developers unfair competitive advantages and special access to  
18 data in repeated violation of user privacy and its public commitment to a level competitive  
19 playing field, in exchange for unrelated advertising purchases or other in-kind consideration at the  
20 expense of small or new Developers, like Styleform, that were attempting to compete in  
21 Facebook Platform. Further, from 2007 through 2015, Facebook intentionally made it more  
22 difficult for small Developers to continue to maintain their products in a manner that was not  
23 cost-prohibitive, while giving larger Developers who made unrelated advertising purchases from  
24 Facebook special access to APIs that made it less costly for them to release and maintain the very  
25 same products and features.

26 6. At Zuckerberg's personal direction, as early as 2009, Facebook used Facebook  
27 Platform as a weapon to gain leverage against competitors in the Developer community in a host  
28 of ways by threatening any company that crossed Facebook's radar that it would shut down its

1 access to publicly available APIs unless: (1) the Developer, itself, was sold to Facebook for a  
2 purchase price below its fair market value; (2) the Developer purchased large amounts of  
3 unrelated advertising from Facebook; (3) the Developer transferred intellectual property over to  
4 Facebook; and/or (4) the Developer fed all of its data back to Facebook, where it would then be  
5 available to the Developer's competitors, placing the Developer's business at great risk.

6 7. At the personal direction of Zuckerberg, by 2009, Facebook took full advantage of  
7 its perverse incentives in serving as both the referee of, and largest participant in, one of the  
8 world's largest software economies. By making a series of misleading partial disclosures and  
9 misrepresentations, Facebook irreparably damaged tens of thousands of Developers in order to  
10 unjustly enrich Defendants. Further, in 2009, Facebook executives discussed backing down  
11 publicly on their promise of a level competitive playing field. They decided internally to back  
12 down on these promises, but concealed this decision from Developers, including Styleform, and  
13 continued to misrepresent Facebook Platform as a level competitive playing field.

14 8. In 2011 and 2012, Zuckerberg extended this concealment campaign and decided it  
15 would be in Facebook's best interest to no longer compete with many Developers and to, instead,  
16 shut down their businesses by restricting their access to dozens of the most popular Platform  
17 APIs, including the full friends list, friends permissions, newsfeed APIs, and other endpoints  
18 ("Graph API endpoints"). Styleform's business and the business of many Developers depended  
19 on these APIs. Working in concert with other Facebook executives and employees and other large  
20 Developers that were close partners, Zuckerberg implemented a plan to deny access to many  
21 applications on Facebook Platform on the primary or exclusive basis that these applications were  
22 competitive with current or future products offered by Facebook or Facebook's close partners.  
23 Defendants' anti-competitive conduct was undertaken in concert with other large Developers to  
24 oligopolize various software markets that Defendants continued to represent would operate on  
25 fair and equal terms and a level competitive playing field.

26 9. Specifically, in 2011 and 2012, Zuckerberg held discussions with Facebook  
27 executives Chris Cox, Javier Olivan, Samuel Lessin, Sheryl Sandberg, Andrew Bosworth, Colin  
28 Stretch and others in which Zuckerberg made a decision to weaponize Facebook Platform using a

1 policy called “Reciprocity,” which included Zuckerberg’s decision to shut down most  
2 Developers’ access to the Graph API endpoints, upon which Styleform’s business depended.  
3 Zuckerberg’s motivations for his decision to create a Reciprocity Policy and shut down public  
4 access to Graph API were two-fold: (1) restrain competition in a wide range of software markets  
5 to make room for new products from Facebook and its close partners; and (2) shut down all  
6 mechanisms for apps to grow organically in order to force apps to prop up Facebook’s new  
7 mobile advertising business or else Facebook would shut them down. The first anti-competitive  
8 motivation helped ensure that no new competitive threat could ever become as big as Facebook.  
9 The second extortion motivation ensured that Facebook could make the transition from desktop  
10 computer advertising to mobile phone advertising without experiencing a significant drop in  
11 revenues in order to turn around its collapsing business.

12 10. Facebook’s internal definition of the Reciprocity Policy required that a Developer  
13 provide to Facebook anything that Facebook in its own discretion deemed valuable, including  
14 unrelated advertising purchases, feeding data back to Facebook, ownership interests in the  
15 Developer’s company, intellectual property rights, or other valuable but unrelated consideration  
16 in order to continue to maintain access to the publicly available Graph API endpoints. If  
17 Developers refused to “reciprocate,” Facebook would shut off their access to data and/or build its  
18 own scraping tools to pull data from the Developer’s website or app directly. The practical effect  
19 of the Reciprocity Policy for many Developers was that they would be shut out of Facebook  
20 Platform, and this was Zuckerberg’s intention in implementing the Reciprocity Policy.

21 11. Facebook published an external version of its Reciprocity Policy in late January  
22 2013 on its public website but intentionally, maliciously, willfully and/or negligently opted not to  
23 disclose that this policy entailed the privatization of over 50 Graph API endpoints that Facebook  
24 for years had represented, and for at least two more years would continue to represent, as  
25 available publicly on equal and fair terms. Facebook further did not disclose when publishing this  
26 policy that Facebook had already begun enforcing these anti-competitive data restrictions and had  
27 active plans to expand the data restrictions to many Developers, including Styleform. Facebook’s  
28 partial disclosure of its Reciprocity Policy was designed to conceal full disclosure of Facebook’s

1 bait-and-switch scheme while enabling Facebook to have a pretext to begin enforcing the scheme.  
2 Had Facebook made a full disclosure that the Reciprocity policy entailed removal of the Graph  
3 API endpoints from the public Platform, then Styleform would not have invested in or continued  
4 to invest in its business.

5 12. Facebook's failure to make a full disclosure of the Reciprocity Policy was an  
6 intentional act to ensure the policy was as vague as possible. The vagueness of the policy  
7 permitted Defendants to shut down any company under a policy-based pretext for any arbitrary or  
8 punitive reason Defendants desired.

9 13. Once Defendants decided to remove competing Developers' access to the Graph  
10 API, Zuckerberg personally maintained an ever-growing list of competing Developers that only  
11 he could authorize blacklisting from the Graph API. Once a Developer was blacklisted from the  
12 Graph API, any applications the Developer built could no longer use any of the blacklisted APIs  
13 that Facebook purportedly provided on fair and neutral terms to all Developers. Blacklisted APIs  
14 often included the Graph API endpoints, including the full friends list, friends permissions and  
15 newsfeed APIs. Facebook made misleading partial public disclosures that certain blacklisted  
16 Developers had their API access restricted but claimed these restrictions were due to clear policy  
17 and privacy violations when in no fact no legitimate policy or privacy violation had occurred. In  
18 numerous other cases, Facebook manipulated its own policy as a pretext to enforce anti-  
19 competitive data restrictions while concealing the announcement of these restrictions. Had  
20 Facebook made a full disclosure that Developers were being blacklisted because Facebook  
21 considered them competitive, then Styleform would not have invested in or continued to invest in  
22 their businesses.

23 14. Zuckerberg's blacklist first contained only a handful of large competitors in 2011,  
24 but then was quickly expanded in 2012 to include major messaging applications, professional  
25 services, and photo or video sharing applications. By 2013, the blacklist included contact  
26 management apps, reputation apps, gifting apps, sharing economy apps, utility apps, file  
27 repository apps, payment apps, birthday reminder apps, photo and video apps, calendar apps,  
28 lifestyle apps, and health and fitness apps. Facebook at various times shut down data access to

1 apps in these categories and made misleading partial disclosures and/or misrepresentations that  
2 these apps were in violation of policies. However, many of these apps violated no published  
3 policy. Rather, policy was used as a pretext for anti-competitive data restrictions. Had Facebook  
4 fully disclosed its reasons for shutting down access to these apps in its public statements,  
5 Styleform would not have invested in or continued to invest in their businesses. Facebook's  
6 misleading partial disclosures and/or misrepresentations around its reasons for shutting down API  
7 access to these app categories, made at various times from 2012 through 2015, greatly enriched  
8 Facebook by making room for its own products on mobile phones – as a result, four of the five  
9 most popular apps worldwide across all major smartphone platforms are now Facebook-owned  
10 apps (see <https://thenextweb.com/apps/2017/04/18/facebook-downloaded-app-netflix/>).

11 15. During this time Facebook maintained a public “size policy” whereby Developers  
12 that acquired large numbers of users could be potentially be subject to rate limiting or data  
13 throttling restrictions, which is standard in the industry. However, the “size policy” also included  
14 a secretive but effective component, undisclosed to Styleform, whereby if a company became too  
15 large and successful, it would go on Zuckerberg’s blacklist and have its API access shut off. The  
16 “size policy” published on the Facebook website would have been materially qualified if  
17 Facebook had fully disclosed its own internal definition of the “size policy” that was different  
18 from the public policy. Facebook employees would even encourage Developers to continue to  
19 rely on certain APIs or avoid telling the Developer its access would be shut off in order to induce  
20 the Developer to grow in reliance on Facebook with full knowledge that once the company  
21 obtained a certain size, Facebook would shut the Developer down. Facebook thus made a  
22 misleading partial disclosure that it was maintaining a fair and neutral platform but failed to  
23 qualify this disclosure with material information that the size of a company would affect  
24 Facebook’s position on whether to remain fair and neutral. Had Facebook shared all material facts  
25 related to its size policy, Styleform would never have invested or continued to invest in building  
26 its business.

27 16. Starting in mid-to-late 2012, Zuckerberg, Olivan, Cox and Lessin began  
28 communicating the decision to restrict Graph API endpoints in order to restrain competition for



1 Facebook's new products and to prop up Facebook's new mobile advertising business to senior  
2 executives on the Platform team, including Michael Vernal (VP Engineering for Platform) and  
3 Doug Purdy (Director of Engineering for Platform), who were tasked with implementing the  
4 scheme. From late 2012 to mid-2013, Vernal and Purdy made additional senior members of the  
5 Platform team aware of the scheme, including Vladimir Federov (Senior Platform Engineering  
6 Leader), Eddie O'Neil (Product Manager for Platform), Ime Archibong (Head of Platform  
7 Partnerships), Simon Cross (Product Manager for Platform), Jackie Chang (Senior Partnerships  
8 Leader), Ilya Sukhar (Head of Developer Products), and other senior members of the Platform  
9 and Developer teams. At no time did any Facebook employees communicate Defendants' scheme  
10 publicly or disclose the scheme directly to Styleform.

11 17. Starting in late 2012 and throughout 2013, at Zuckerberg's instruction, Vernal,  
12 Purdy, O'Neil, Sukhar and others began implementing Zuckerberg's decision to restrict API  
13 access for anti-competitive reasons under the Reciprocity Policy framework. The Platform team,  
14 managed by Vernal, was working on a public announcement of these changes to be released  
15 before the end of 2012. However, Zuckerberg directed Vernal not to disclose these changes but to  
16 instead extract payments from Developers upon threat of being shut down from the public  
17 Platform APIs. In other words, Zuckerberg directed Vernal to privately and secretly enforce these  
18 changes while continuing to mislead the general public and Developers, including Styleform.  
19 Had Facebook made the public announcement Vernal had planned in late 2012, Styleform never  
20 would have invested in or continued to invest in building its business. By continuing to represent  
21 fairness and neutrality publicly while privately requiring unrelated payments in Facebook's new  
22 advertising product, Mobile App Install Ads, Facebook was able to rapidly accelerate its  
23 transition from desktop computer advertising to mobile advertising, which makes up more than  
24 90% of its revenues today.

25 18. In mid-2013, Zuckerberg directed Defendants to expand their efforts at extracting  
26 payments from Developers upon threat of being shut down, eventually entering into over 5,000  
27 special agreements that provided special access to data that violated user privacy in exchange for  
28 financial consideration from the Developer, typically in the form of a minimum required annual

1 purchase in Facebook's new Mobile App Install Ads advertising product. Mobile App Install Ads  
2 became the fastest growing business in the history of advertising as a direct result of Zuckerberg's  
3 concealment and extortion campaign.

4 19. Zuckerberg and other Facebook executives and employees actively, intentionally,  
5 recklessly, maliciously, oppressively, fraudulently and/or negligently concealed from Developers,  
6 the public and certain internal employees this decision to restrict the Graph API, while continuing  
7 to make misrepresentations and misleading partial disclosures that enticed Developers to make  
8 investments in Facebook Platform until at least 2015, notwithstanding that Facebook had a duty  
9 to disclose this material fact that applications relying on Graph API would no longer function and  
10 that any investments made by Developers in such applications, particularly after 2011 and 2012,  
11 would be irreparably damaged.

12 20. Facebook had a duty to disclose for a number of independent reasons, including:  
13 its standard adhesion contract which it enters into with all users and Developers (the "SRR" or  
14 "Agreement") and which specifies the commercial terms of a Developer's integration; the fact  
15 that Facebook and Developers shared confidential and highly sensitive and private personal  
16 information of consumers under the Agreement; the fact that Developers were required to share  
17 their source code and other confidential intellectual property with Facebook at Facebook's  
18 request under the Agreement; and the fact that Facebook made misleading partial disclosures of  
19 fact to the public and Developers regarding how it collects, stores, and transmits user data while  
20 omitting material facts that would undermine and often contradict its misleading partial  
21 disclosures. Facebook's duty to disclose also arises out of the fact that the Agreement is the single  
22 most entered-into contract in human history, with over 2 billion people and tens of millions of  
23 businesses entrusting Facebook to manage their confidential, personal and private information  
24 under the terms of the Agreement, and therefore greatly implicates the public interest.

25 21. Beginning in 2011 and continuing until 2015, at Zuckerberg's personal direction,  
26 Facebook executives instructed their subordinates to identify categories of applications that would  
27 be considered competitive and to develop a plan to remove access to critical APIs necessary for  
28 these applications to function, thereby eliminating competition across entire categories of

1 software applications, like the ones Styleform had been developing and maintaining continuously  
2 from 2007 through 2015, after Zuckerberg had already decided to restrict access to the Graph API  
3 necessary for Styleform's technology to function.

4 22. Defendants actively, maliciously, oppressively and fraudulently concealed the fact  
5 that it would be restricting access to the Graph API endpoints and continued to entice Developers  
6 to make such investments for at least two years. Had Defendants disclosed this fact within a  
7 reasonable time after making its decision, Styleform would not have made investments of capital  
8 and resources in Facebook Platform. Instead, Defendants unjustly enriched themselves through  
9 this fraudulent and anti-competitive conduct by enticing investments that generated revenues for  
10 Facebook with full knowledge that those investments would be irreparably damaged.

11 23. Further, while actively suppressing this material information and continuing to  
12 entice Developers to invest in building applications for Facebook Platform, Zuckerberg instructed  
13 certain Facebook executives to require or encourage their subordinates to engage in a number of  
14 collusive and anti-competitive schemes with other large companies. The schemes involved  
15 Facebook offering these Developers unfair advantages via private API access in various software  
16 markets in exchange for unrelated advertising payments and/or other forms of cash or in-kind  
17 consideration that benefited Facebook. In doing so, Facebook and these large Developers held  
18 hostage APIs that Facebook previously promised would be available to all Developers on neutral  
19 and equal terms.

20 24. This practice systematically disadvantaged small or new Developers, including  
21 Styleform, that had been competing in Facebook's purportedly fair and neutral operating system.  
22 Smaller Developers like Styleform could no longer participate in one of the largest application  
23 and advertising economies globally, providing an immense advantage to large Developers that  
24 combined and conspired with Facebook to control the Graph API that Facebook for years  
25 promised would be accessible on equal terms. The conduct of the Facebook executives who  
26 participated in these schemes was undertaken in combination and concert with large Developers  
27 who benefited from the decision to restrict data access, eliminate competition in various software  
28 markets, and make it more difficult for small Developers to maintain their products and grow on

1 Facebook Platform.

2 25. Finally, beginning in 2013 and coalescing around February 2014, Zuckerberg  
3 fabricated and disseminated a fraudulent pro-privacy narrative to mask the deceptive and anti-  
4 competitive schemes that Defendants had begun implementing in 2012. Zuckerberg directed  
5 Defendants Vernal and Sukhar, along with Doug Purdy, to end the extortion scheme by 2014 or  
6 2015 under a purported pro-privacy narrative which was announced publicly as “The New Login  
7 and Graph API 2.0” but referred to internally by Defendants as the “Switcharoo Plan.” The cover-  
8 up was called the Switcharoo Plan because it hid the anti-competitive, privacy-violating scheme  
9 behind an unrelated initiative to revamp Facebook Login, which Facebook purported was  
10 undertaken to promote user privacy, in order to pull the “switch” on Facebook’s competitors.

11 26. This fabricated pro-privacy narrative centered on the false claim that the APIs  
12 being shut off to tens of thousands of smaller Developers were rarely used and/or violated user  
13 trust and control over their data. These fabricated reasons for shutting off APIs critical to the  
14 functioning of tens of thousands of applications, including Styleform’s applications, played no  
15 role in the actual decisions made by Zuckerberg and ratified and implemented by other Facebook  
16 executives. Further, employees were livid by the scheme when they found out in late 2013 and  
17 2014 and many left the company. Before leaving, these employees noted that Facebook was  
18 deliberately trying to place the blame on unspecified bad actor Developers for Facebook’s own  
19 anti-competitive and privacy-violating conduct and that Facebook was succeeding in doing so.

20 27. Further, once Styleform entered into the Agreement with Facebook, Facebook had  
21 a duty to disclose material information, including the fact that Zuckerberg had decided to shut  
22 down API access in 2012. Facebook provided notices to Styleform via email many dozens of  
23 times from 2012 through 2018, and yet not a single communication from Facebook put Styleform  
24 on notice of this material information, making it impossible for Styleform to recoup its  
25 investment of time and money. Facebook intentionally withheld and actively concealed this  
26 information and only made misleading partial disclosures of this information to which it had  
27 exclusive knowledge in order to unjustly enrich Facebook and its executives, mitigate potential  
28 legal liability and avoid negative press. Facebook’s misleading partial disclosures of material

1 information exclusively in its own possession fraudulently induced Styleform to enter into  
2 contract and to continue to contract with Facebook by maintain its products and building its  
3 business on Facebook Platform at significant cost to Styleform.

4 28. Facebook, at Zuckerberg's personal direction, deliberately suppressed material  
5 information and shared only partial information in its communications regarding Facebook  
6 Platform from 2007 through 2018, and, in particular, during Zuckerberg's April 30, 2014  
7 announcement at F8, causing further harm to Styleform in a malicious and fraudulent attempt to  
8 cover up Defendants' bait-and-switch schemes. For instance, Zuckerberg partially disclosed that  
9 Facebook was versioning the Graph API, but then misrepresented that Developers would be able  
10 to choose the version they build against, while concealing material facts Zuckerberg knew at the  
11 time contradicted this representation.

12 29. Defendants conspired with and instructed their subordinates to conspire with other  
13 Developers to engage in fraudulent bait-and-switch schemes and repeatedly acted negligently,  
14 fraudulently and maliciously in violation of California law to the detriment of consumers and tens  
15 of thousands of small Developers, whose investments unjustly enriched Defendants. Defendants'  
16 conduct amounts to a classic bait-and-switch tactic barred by California's Unfair Competition  
17 Law. Further, Defendants' knowingly false representations and misleading partial disclosures to  
18 users and Developers violate California's False Advertising Law. Finally, Defendants'  
19 representations for years that Graph API would be offered on fair and neutral terms while secretly  
20 tying access to these purportedly public APIs to an unrelated mobile advertising product is a  
21 textbook tying scheme in violation of California's Cartwright Act.

22 30. Around the time Zuckerberg made this decision to engage in the Facebook  
23 Platform Extortion Scheme, Facebook's stock price had dropped by more than half from its initial  
24 public offering ("IPO") in May 2012, reaching a low of \$37 billion in September 2012.  
25 Zuckerberg personally lost approximately \$10 billion in the period during which he decided to  
26 implement the fraudulent and anti-competitive schemes alleged herein. After Zuckerberg decided  
27 upon and implemented the alleged fraudulent and anti-competitive schemes, the downward  
28 trajectory of Facebook's stock reversed course and began its rapid climb to an approximate \$445

1 billion market capitalization as of October 19, 2018, a much more than ten-fold increase from the  
2 low it had reached prior to Zuckerberg engaging in the alleged conduct. Zuckerberg and certain  
3 other Facebook executives were greatly enriched as a result of the alleged conduct on the order of  
4 millions or billions of dollars. The alleged conduct was a substantial factor in the turnaround of  
5 Facebook's stock price and the growth of its business.

6 31. Facebook's entire business up until 2013 was built for desktop computers.  
7 However, by 2012, people began accessing the Internet more frequently from their phones than  
8 from their computers. This was the primary reason Facebook's business was collapsing by mid-  
9 2012. In order to save Facebook's business, Sheryl Sandberg, Dan Rose, Samuel Lessin and  
10 others convinced Zuckerberg to weaponize user data and Graph API in an extortion scheme that  
11 had devastating impacts across the entire consumer software industry and caused 35,000 small-to-  
12 medium businesses to shut down or pivot at a substantial loss, wreaking havoc on their investors,  
13 employees and the families that depended upon them. It further prevented consumers from  
14 exercising any reasonable degree of choice in how their needs are met across a wide range of  
15 products and services, resulting in the dominant market position Facebook maintains over many  
16 consumer software experiences today.

## 17 18 **II. THE PARTIES**

19 32. Plaintiff Styleform IT is a sole proprietorship registered in Sweden with a principal  
20 place of business at Tussmotevagen 192b, S-12264 Enskede, Sweden.

21 33. Defendant Facebook, Inc. ("Facebook") is a Delaware Corporation with a  
22 principal place of business at One Hacker Way, Menlo Park, California.

23 34. Defendant Facebook Ireland Limited is an Irish limited liability company wholly  
24 owned by Facebook, Inc. with a principal place of business at 4 Grand Canal Square, Grand  
25 Canal Harbour, Dublin 2.

26 35. Defendant Mark Zuckerberg ("Zuckerberg") is an individual residing in Palo Alto,  
27 California. Zuckerberg was the Chief Executive Officer of Facebook during the time during  
28 which the alleged conduct occurred and personally made the decisions comprising the alleged

1 conduct, including: (1) the decision to use Facebook Platform as a ‘bait and switch’ scheme to  
2 unjustly enrich Facebook and the individual Defendants from 2007 through present; (2) the  
3 decision to fraudulently, negligently, intentionally, maliciously and oppressively misrepresent  
4 Facebook’s plans regarding Facebook Platform before and *after* Facebook had already decided to  
5 restrict Graph API in 2011 and 2012; (3) the decision to actively conceal material information to  
6 tens of thousands of Developers, including Styleform, for years, notwithstanding that Facebook  
7 was under a duty to disclose such information; (3) the decision to conspire with large Developers  
8 to restrict access to data that Facebook promised for seven years would be available to all  
9 Developers on neutral and equal terms in exchange for large cash payments in advertising and/or  
10 other in-kind consideration that greatly benefited Facebook; and (4) the decision in late 2013 and  
11 early 2014 to concoct an entirely fabricated narrative in order to mask Facebook’s true intentions  
12 around its deceptive and anti-competitive schemes. Zuckerberg made, and directed Facebook  
13 employees to make, false statements and to maliciously suppress material facts from 2007  
14 through at least 2015, regarding Facebook’s management of Facebook Platform with the intention  
15 of inducing investment from Developers to build applications on Facebook Platform. Zuckerberg  
16 did so knowing these investments would be irreparably damaged. Zuckerberg was aware these  
17 statements were false at the time they were made and that the facts suppressed would have  
18 materially qualified the misleading partial disclosures he authorized or personally made.  
19 Zuckerberg engaged in this wrongful and malicious conduct precisely in order to damage (and  
20 with full knowledge of the proximate damage to) these 40,000 or more software applications,  
21 including Styleform’s applications, (collectively, “Apps”), to fulfill his primary goals of  
22 removing competitive threats to Facebook’s planned products and propping up Facebook’s  
23 mobile advertising business by holding Developers hostage. Zuckerberg was aware that these  
24 40,000 or more apps, including Styleform’s Apps, had contracts with their end customers that  
25 would be breached or otherwise interrupted by Zuckerberg’s intentional, wrongful, malicious,  
26 oppressive, fraudulent and negligent conduct because the adhesion contract Developers, including  
27 Styleform, entered into with Facebook required them to maintain such contracts with their end  
28 customers.

1           36. Defendant Christopher Cox (“Cox”) is an individual residing in San Francisco,  
2 California. Cox was the VP Product and/or Chief Product Officer of Facebook during the period  
3 in question and was responsible for deciding upon and implementing key components of  
4 Zuckerberg’s fraudulent and anti-competitive schemes. Cox actively approved, participated,  
5 ratified, directed and acquiesced in the conspiracies and schemes alleged herein, including  
6 directing subordinates to increasingly expand the definition of competitive applications whose  
7 access to data would be removed. Cox made, and directed Facebook employees to make, false  
8 statements and to maliciously suppress material facts from at least 2007 through 2015 regarding  
9 Facebook’s management of Facebook Platform with the intention of inducing investment from  
10 Developers to build applications on Facebook Platform. Cox did so knowing that these  
11 investments would be irreparably damaged. Cox was aware these statements were false at the  
12 time they were made and that the facts suppressed would have materially qualified the misleading  
13 partial disclosures he authorized or personally made. Cox engaged in this wrongful and malicious  
14 conduct precisely in order to damage (and with full knowledge of the proximate damage to) these  
15 40,000 or more apps., including Styleform’s Apps, to fulfill his primary goals of removing  
16 competitive threats to Facebook’s planned products and propping up Facebook’s mobile  
17 advertising business by holding Developers hostage. Cox was aware that these 40,000 or more  
18 apps, including Styleform’s Apps, had contracts with their end customers that would be breached  
19 or otherwise interrupted by Cox’s intentional, wrongful, malicious, oppressive, fraudulent and  
20 negligent conduct because the adhesion contract Developers, including Styleform, entered into  
21 with Facebook required them to maintain such contracts with their end customers.

22           37. Defendant Javier Olivan (“Olivan”) is an individual residing in Atherton,  
23 California and Santa Cruz, California. Olivan was the Vice President of Growth of Facebook  
24 during the period in question and was responsible for deciding upon and implementing key  
25 components of Zuckerberg’s fraudulent and anti-competitive schemes. Olivan actively approved,  
26 participated, ratified, directed and acquiesced in the conspiracies and schemes alleged herein,  
27 including directing subordinates to increasingly expand the definition of competitive applications  
28 whose access to data would be removed. Olivan repeatedly required the Facebook Platform team



1 to shut down applications on the exclusive basis that they were competitive with Facebook and  
2 further required the Platform team to re-architect the APIs Facebook made available to make it  
3 more difficult for other Developers to compete with Facebook on a level playing field, including  
4 removal of the friends list API, friends permissions APIs, newsfeed APIs, user ID APIs, and  
5 others. Olivan directed numerous projects at Facebook that intentionally violated user privacy in  
6 order to give Facebook's products an unfair competitive advantage relative to other Platform  
7 apps. Olivan made, and directed Facebook employees to make, false statements and to  
8 maliciously suppress material facts from at least 2007 through 2015 regarding Facebook's  
9 management of Facebook Platform with the intention of inducing investment from Developers to  
10 build applications on Facebook Platform. Olivan did so knowing that these investments would be  
11 irreparably damaged. Olivan was aware these statements were false at the time they were made  
12 and that the facts suppressed would have materially qualified the misleading partial disclosures he  
13 authorized or personally made. Olivan engaged in this wrongful and malicious conduct precisely  
14 in order to damage (and with full knowledge of the proximate damage to) these 40,000 software  
15 applications, including Styleform's Apps, to fulfill his primary goals of removing competitive  
16 threats to Facebook's planned products and propping up Facebook's mobile advertising business  
17 by holding Developers hostage. Olivan was aware that these 40,000 or more software  
18 applications, including Styleform's Apps, had contracts with their end customers that would be  
19 breached or otherwise interrupted by Olivan's intentional, wrongful, malicious, oppressive,  
20 fraudulent and negligent conduct because the adhesion contract Developers, including Styleform,  
21 entered into with Facebook required them to maintain such contracts with their end customers.  
22 Further, Zuckerberg directed Olivan (along with Lessin) in 2012 to oversee Vernal's Platform  
23 team to make sure Facebook properly executed its goal of removing thousands of competitive  
24 threats by privatizing Graph API while continuing to represent the public availability of Graph  
25 API in order to gain leverage over Developers and extort them into purchasing Facebook's new  
26 mobile advertising product.

27         38. Defendant Samuel Lessin ("Lessin") is an individual residing in San Francisco,  
28 California. Lessin was the Director of Product and/or Vice President of Product Management of

1 Facebook, Inc. during the period in question and was responsible for deciding upon and  
2 implementing key components of Zuckerberg's fraudulent and anti-competitive schemes. Lessin  
3 actively approved, participated, ratified, directed and acquiesced in the conspiracies and schemes  
4 alleged herein, including directing subordinates to increasingly expand the definition of  
5 competitive applications whose access to data would be removed. In the summer and fall of 2012,  
6 Lessin worked with Zuckerberg and other Facebook executives like Sheryl Sandberg, Andrew  
7 Bosworth and Dan Rose to weaponize developers' reliance on Facebook Platform by threatening  
8 to break many software applications unless the developer made significant purchases in unrelated  
9 advertising using Facebook's new mobile advertising product. Lessin was instrumental in  
10 developing the plan whereby Facebook approached Developers to buy advertising under the  
11 threat that if they did not do so, Facebook would break their applications by removing access to  
12 public Platform data. Lessin made, and directed Facebook employees to make, false statements  
13 and to maliciously suppress material facts regarding Facebook's management of Facebook  
14 Platform with the intention of inducing investment from Developers to build applications on  
15 Facebook Platform. Lessin did so knowing these investments would be irreparably damaged.  
16 Lessin was aware these statements were false at the time they were made and that the facts  
17 suppressed would have materially qualified the misleading partial disclosures he authorized or  
18 personally made. Lessin engaged in this wrongful and malicious conduct precisely in order to  
19 damage (and with full knowledge of the proximate damage to) these 40,000 software  
20 applications, including Styleform's Apps, to fulfill his primary goals of removing competitive  
21 threats to Facebook's planned products and propping up Facebook's mobile advertising business  
22 by holding Developers hostage. Lessin was aware that these 40,000 or more apps, including  
23 Styleform's Apps, had contracts with their end customers that would be breached or otherwise  
24 interrupted by Lessin's intentional, wrongful, malicious, oppressive, fraudulent and negligent  
25 conduct because the adhesion contract Developers, including Styleform, entered into with  
26 Facebook required them to maintain such contracts with their end customers. Further, Zuckerberg  
27 directed Lessin (along with Olivan) in 2012 to oversee Vernal's Platform team to make sure  
28 Facebook properly executed its goal of propping up its mobile advertising business by privatizing

1 Graph API while continuing to represent the public availability of Graph API in order to gain  
2 leverage over Developers and extort them into purchasing Facebook's new mobile advertising  
3 product.

4 39. Defendant Michael Vernal ("Vernal") is an individual residing in San Francisco,  
5 California. Vernal was the Vice President of Engineering of Facebook during the period in  
6 question and was charged with direct oversight of Facebook Platform. As such, Vernal was  
7 responsible for deciding upon and implementing key components of Zuckerberg's fraudulent and  
8 anti-competitive schemes. Vernal actively approved, participated, ratified, directed and  
9 acquiesced in the conspiracies and schemes alleged herein, including architecting and overseeing  
10 the implementation plan to cause tens of thousands of software applications to cease functioning  
11 in order to oligopolize various software markets for the benefit of Facebook and Facebook's close  
12 partners. Zuckerberg directed Vernal to be the front man internally for this bait and switch  
13 scheme with full responsibility for its design and implementation such that many employees at  
14 Facebook were for years under the impression that the API restrictions were Vernal's idea. Vernal  
15 made, and directed Facebook employees to make, false statements and to maliciously suppress  
16 material facts from at least 2009 through 2015 regarding Facebook's management of Facebook  
17 Platform with the intention of inducing investment from Developers to build applications on  
18 Facebook Platform. Vernal did so knowing these investments would be irreparably damaged.  
19 Vernal was aware these statements were false at the time they were made and that the facts  
20 suppressed would have materially qualified the misleading partial disclosures he authorized or  
21 personally made. Vernal engaged in this wrongful and malicious conduct precisely in order to  
22 damage (and with full knowledge of the proximate damage to) these 40,000 or more apps,  
23 including Styleform's Apps, to fulfill his primary goals of removing competitive threats to  
24 Facebook's planned products and propping up Facebook's mobile advertising business by holding  
25 Developers hostage. Vernal was aware that these 40,000 or more apps, including Styleform's  
26 App, had contracts with their end customers that would be breached or otherwise interrupted by  
27 Vernal's intentional, wrongful, malicious, oppressive, fraudulent and negligent conduct because  
28 the adhesion contract Developers, including Styleform, entered into with Facebook required them

1 to maintain such contracts with their end customers.

2           40. Defendant Ilya Sukhar (“Sukhar”) is an individual residing in San Francisco,  
3 California. Sukhar was the Vice President of Developer Products of Facebook during the period  
4 in question and was responsible for deciding upon and implementing key components of  
5 Zuckerberg’s fraudulent and anti-competitive schemes. Sukhar actively approved, participated,  
6 ratified, directed and acquiesced in the conspiracies and schemes alleged herein, including  
7 architecting and overseeing the plan to achieve support among Facebook employees and  
8 Developers around the fabricated narrative Zuckerberg manufactured to conceal his various anti-  
9 competitive schemes. Zuckerberg directed Sukhar in the second half of 2013 and early 2014 to  
10 serve as the front man externally for the bait and switch scheme in light of Sukhar’s respected  
11 reputation among the software developer community. Sukhar made, and directed Facebook  
12 employees to make, false statements and to maliciously suppress material facts from at least 2013  
13 through 2015 regarding Facebook’s management of Facebook Platform with the intention of  
14 inducing investment from Developers to build applications on Facebook Platform. Sukhar did so  
15 knowing these investments would be irreparably damaged. Sukhar was aware these statements  
16 were false at the time they were made and that the facts suppressed would have materially  
17 qualified the misleading partial disclosures he authorized or personally made. Sukhar engaged in  
18 this wrongful and malicious conduct precisely in order to damage (and with full knowledge of the  
19 proximate damage to) these 40,000 or more apps, including Styleform’s Apps, to fulfill his  
20 primary goals of removing competitive threats to Facebook’s planned products and propping up  
21 Facebook’s mobile advertising business by holding Developers hostage. Sukhar was aware that  
22 these 40,000 or more apps, including Styleform’s Apps, had contracts with their end customers  
23 that would be breached or otherwise interrupted by Sukhar’s intentional, wrongful, malicious,  
24 oppressive, fraudulent and negligent conduct because the adhesion contract Developers, including  
25 Styleform, entered into with Facebook required them to maintain such contracts with their end  
26 customers. Sukhar worked with Zuckerberg directly to concoct a fabricated narrative around user  
27 trust in late 2013 and early 2014 that intentionally and maliciously concealed critical facts related  
28 to Facebook’s anti-competitive data restrictions in order to avoid legal and public relations

1 ramifications for Zuckerberg's bait and switch scheme.

2 41. Styleform is ignorant of the true names and capacities of the Defendants sued  
3 herein as Does 1 through 50, inclusive, and each of them, and therefore sues said Defendants by  
4 such fictitious names. Styleform will amend this complaint when the true names and capacities of  
5 said Defendants have been ascertained. Styleform is informed and believes and thereon alleges,  
6 that Defendants Does 1 through 50, inclusive, and each of them, are legally responsible in some  
7 manner for the events and happenings referred to herein and proximately caused or contributed to  
8 the injuries to Styleform as hereinafter alleged. Wherever in this complaint any Defendant is the  
9 subject of any charging allegation by Styleform, it shall be deemed that said Defendants Does 1  
10 through 50, inclusive, and each of them, are likewise the subjects of said charging allegation.

11 42. At all times herein mentioned, each of the Defendants was the agent and employee  
12 of each of the remaining Defendants and, in doing the things herein alleged, was acting within the  
13 course and scope of said agency and employment and in particular from direction authorized and  
14 required by Zuckerberg.

### 16 III. FACTS

17 43. Styleform is a software consulting business that builds applications for clients and  
18 for its own account on Facebook Platform using Graph API. Beginning in 2007, Styleform built  
19 and maintained a variety of applications on Facebook Platform. Styleform has continuously  
20 maintained applications on Facebook Platform to the present day and has an active Facebook  
21 Developer account. Further, the principal of Styleform has been a registered Facebook user  
22 continuously from 2007 through the present day.

23 44. In order to develop its Apps on Facebook Platform, Styleform was required to  
24 enter and did in fact enter into Facebook's Statement of Rights and Responsibilities ("SRR" or  
25 "Agreement"). The SRR is the "terms of service that governs [Facebook's] relationship with  
26 users and others who interact with Facebook. By using or accessing Facebook, [Styleform]  
27 agree[d] to this Statement...." Styleform was subject to the same SRR as all Developers on  
28 Facebook Platform, since all Developers are required to agree to the SRR before accessing any

1 Graph API endpoints.

2 45. The primary consideration offered by Facebook is described as follows in the  
3 Agreement: “We give you all rights necessary to use the code, APIs, data, and tools you receive  
4 from us” (Section 9). In exchange, Styleform gave Facebook various rights and other forms of  
5 valuable consideration, including, for instance, the right to issue “a press release describing  
6 [Facebook’s] relationship with [Styleform],” the “right to analyze [Styleform’s] application[s],  
7 content, and data for any purpose, including commercial” purposes like targeting advertisements.  
8 In other words, Styleform gave Facebook the right to leverage the user engagement from  
9 Styleform’s Apps to increase Facebook’s advertising revenues.

10 46. In consideration of the rights to access Facebook’s data, Styleform also committed  
11 to a wide range of obligations around which it incurred substantial cost, such as ensuring that  
12 Styleform would “provide customer support for its application,” “make it easy for users to  
13 contact” Styleform or “remove or disconnect” Styleform’s Apps. The terms of the Agreement  
14 between Styleform and Facebook required that the two parties share and maintain highly  
15 confidential, private and sensitive information of consumers, including personally identifiable  
16 information. This confidential and sensitive data includes the name, phone device ID, email  
17 address, private profile information, data uploaded to the Facebook site like photos and videos,  
18 location. Further, under the Agreement, Styleform was required to share with Facebook  
19 confidential and proprietary source code, including the inner workings and unique intellectual  
20 property behind their technologies at any time upon Facebook’s request.

21 47. Facebook had a duty to disclose material facts affecting its ability to perform under  
22 the Agreement, including to continue to provide rights to the data it had been sending to  
23 Styleform given the Agreements between the parties. Facebook further had a duty to disclose  
24 material facts to Styleform in light of the confidential information shared between the parties.

25 48. At all times, Styleform performed all their obligations under the Agreement and  
26 abided by all Facebook policies, terms and conditions. At no time did Facebook ever notify  
27 Styleform that it believed Styleform had violated any term of its Agreement with Facebook or any  
28 policies, including those related to user privacy, user trust or user control of data.

1           49.     Styleform further agreed that Facebook could “create applications that offer  
2 similar features and services to, or otherwise compete with, [Styleform’s] applications”; that  
3 Facebook Platform may not always be free to use; and that Facebook could limit access to data or  
4 impose additional data-throttling restrictions if Styleform’s user bases increased substantially.  
5 Styleform reasonably concluded that these requirements meant that Styleform in the future may  
6 be charged a fee to access data or otherwise participate in Facebook’s economy, which fees  
7 would be charged consistently across all Developers based on publicly established pricing, and  
8 that the amount of data Styleform could access at any time may be rate-limited to assist Facebook  
9 in managing its costs in maintaining the API. Rate-limiting is common across most software APIs  
10 to ensure that an API user can only access a certain amount of data over a specified period of  
11 time. This assists the API provider, in this case Facebook, to manage costs associated with  
12 maintaining the API. Further, Styleform understood Facebook to mean that Facebook could  
13 compete with Styleform on a level playing field where the consumer decides which products  
14 succeed in the market.

15           50.     Nowhere in the Agreement did Facebook state that access to data could be  
16 provided on an unequal basis or that Facebook reserved its rights to provide data on an unequal,  
17 privileged, punitive or arbitrary basis. Nowhere in the Agreement did Facebook state that it  
18 reserved its rights to remove entirely the Graph API, the core APIs that defined Facebook  
19 Platform for over seven years and induced Developers, including Styleform, to build applications  
20 on Facebook Platform instead of other operating systems like those offered by Google, Microsoft  
21 or Apple.

22           51.     Facebook’s public representations for seven years affirmed the reasonableness of  
23 Styleform’s interpretation of its Agreement with Facebook. As the Agreement was drafted  
24 entirely by Facebook, if Facebook had intended by its terms to convey that it could provide access  
25 to data on unequal, privileged or arbitrary terms, or that it could shut down entirely access to  
26 entire categories of Graph API endpoints, it could have and should have done so.

27           52.     To this day, Facebook’s Platform Policies still include obligations around social  
28 data, stating that Developers can “Only use friend data (including friends list) in the person’s

1 experience in your app.” (See developers.facebook.com/policy, Section 3.3). This demonstrates  
2 that some Developers who have entered into special agreements with Facebook still have access  
3 to this social data notwithstanding that the data has been restricted to all other Developers.  
4 Certain large Developers with close relationships to Facebook and who paid Facebook substantial  
5 sums of cash or other financial consideration continue to have access to this data in some form,  
6 notwithstanding that it has been restricted to at least 35,000 other Developers.

7 53. Before and during the time Styleform was considering investing in Facebook  
8 Platform, Facebook repeatedly stated that it intended to have an open governance process around  
9 its terms of use and that Developers would participate in the evolution of their agreements with  
10 Facebook. For instance, on April 22, 2009, Zuckerberg released a video to Developers and users  
11 in which he stated that a community as “large and engaged [as Facebook] needs a more open  
12 process, and a voice in governance. That’s why a month ago, we announced a more transparent  
13 and democratic approach to governing the Facebook site. Since that time, users and experts from  
14 around the world have read and offered comments on the documents that we’ve proposed, the  
15 Facebook Principles and the Statement of Rights and Responsibilities. We’ve read all of these  
16 comments and we’ve created new drafts of the documents.... Now we want you to vote and share  
17 with us which documents you think should govern Facebook. I hope you take a minute or two to  
18 vote and also to fan the Facebook Site Governance Page”<sup>1</sup> (see [https://www.facebook.com/](https://www.facebook.com/fbsitegovernance/videos/vb.69178204322/718903095373/?type=2&theater)  
19 [fbsitegovernance/videos/vb.69178204322/718903095373/?type=2&theater](https://www.facebook.com/fbsitegovernance/videos/vb.69178204322/718903095373/?type=2&theater)). These various  
20 representations led Styleform reasonably to conclude that Facebook intended to be a good actor in  
21 enforcing its Agreement with Styleform, would not take actions that would frustrate Styleform’s  
22 ability to gain benefits under the agreement, and would not unilaterally change the manner in  
23 which the Agreement was implemented.

24 54. In entering into the Agreement, Styleform reasonably relied on the various official  
25 statements, announcements, policy documents and verbal representations of Facebook employees,

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27 <sup>1</sup> In the quoted text here and elsewhere in the Complaint, official public representations by  
28 Facebook or its employees have been underlined for emphasis.



1 and, in particular, of Zuckerberg, and the Facebook Platform FAQ document Facebook had  
2 produced. Styleform could not have known that Zuckerberg decided to restrict access to the data  
3 necessary for Styleform's technology to work, as Facebook had exclusive access to this  
4 information and had taken measures to actively conceal this fact from Styleform, other  
5 Developers, and the public.

6 55. As a result of Defendants' public representations regarding Facebook Platform,  
7 Styleform began building Facebook applications for clients and embraced a business strategy  
8 whereby Facebook Platform became an important part of its overall business beginning in 2007.  
9 Styleform built the first Swedish Facebook App in partnership with a Swedish advertising  
10 agency, Pronto Communications. The application, "Rosa Bandet," or "Pink Ribbon" ("Pink  
11 Ribbon App") was sponsored by the client, Cancer Fonden, a leading Swedish cancer awareness  
12 foundation. The purpose of the Pink Ribbon App was to support breast cancer awareness and  
13 research by encouraging Facebook users to donate and display a pink ribbon on their Facebook  
14 profiles. The Pink Ribbon App required the full friends list API and other Graph API endpoints in  
15 order to function. The Pink Ribbon App raised over 200,000 Euro to support breast cancer  
16 research and spread to more than 250,000 Facebook users.

17 56. As a result of Defendants' public representations regarding Facebook Platform,  
18 Styleform developed another application with a Swedish advertising agency. This application was  
19 called "Klimatsmart," or "Climate Smart" ("Climate Smart App"). The purpose of the Climate  
20 Smart App was to support solutions to address climate change and improve the health of the  
21 planet. The Climate Smart App required the full friends list API and other Graph API endpoints  
22 in order to function. The Climate Smart App spread to more than 17,000 Facebook users. The  
23 Climate Smart App remains an approved Facebook App that Facebook considers active to this  
24 day, and thus Styleform continues to be harmed by Defendants' fraudulent and malicious  
25 weaponization of the Facebook Platform economy.

26 57. As a result of Defendants' public representations regarding Facebook Platform,  
27 Styleform developed another application called "Nyarsloften" or "New Year Resolutions" ("New  
28 Year Resolutions App"). The purpose of the New Year Resolutions App was to suggest New

1 Year Resolutions to your friends and track their progress in keeping their resolutions over time.  
2 The New Year Resolutions App required the full friends list API and other Graph API endpoints  
3 in order to function. The New Year Resolutions App remains an approved Facebook App that  
4 Facebook considers active to this day, and thus Styleform continues to be harmed by Defendants'  
5 fraudulent and malicious weaponization of the Facebook Platform economy.

6 58. Given that 250,000 Pink Ribbon App users, 17,000 Climate Smart App users, and  
7 hundreds of New Year Resolutions App users had entered into contract with Styleform, all of the  
8 Facebook friends of these approximately 267,000 customers were prospective customers of  
9 Styleform who could enter into contract with Styleform with a single click on a link sent by their  
10 friends. Styleform had a reasonable expectation of contractual benefit and prospective economic  
11 advantage with these 267,000 customers and their Facebook friends.

12 59. As a direct result of Defendants' malicious bait-and-switch schemes weaponizing  
13 Facebook Platform from at least 2009 through the present day, Styleform was forced to incur  
14 significant unnecessary expenses to maintain its applications, clients and business prospects,  
15 including but not limited to all activities surrounding the Pink Ribbon App, the Climate Smart  
16 App, and the New Year Resolutions App. Styleform's contractual relationships with its  
17 advertising agency clients suffered and ultimately the clients terminated their contracts with  
18 Styleform related to all Facebook applications built by Styleform and due to no fault of  
19 Styleform. Styleform was forced to maintain the software code, hosting and upgrades of the  
20 Facebook applications at its own expense.

21 60. Further, Styleform was forced to incur significant, additional unnecessary costs in  
22 maintaining the New Year Resolutions App. Styleform maintained this application and others in  
23 the hope that Facebook would eventually stabilize its Platform and stop making changes that  
24 disadvantaged small developers for the benefit of Facebook and its closest partner Developers.  
25 However, Styleform was not aware and could not have learned that while Facebook had  
26 represented a level competitive playing field and parity across all Developers, including Facebook  
27 itself, Facebook had at least by 2009 made the decision to manage its Platform in a manner that  
28 systematically disadvantaged smaller Developers for the benefit of Facebook and its closest

1 partner Developers.

2 61. Further, had Styleform been aware of Zuckerberg's decision to extort Developers  
3 on the Platform beginning in late 2012 to transition his advertising business from desktop  
4 computers to mobile phones, and further to privatize the very APIs that Styleform relied upon in  
5 order to effectuate the extortion scheme, Styleform would have ceased altogether operating in the  
6 Facebook Platform economy. Had Styleform been aware of these facts known only to Facebook  
7 and its closest partner Developers, Styleform would not have built applications on Facebook  
8 Platform or continued to maintain them until the present day.

9 62. On April 30, 2015, Facebook required all applications to "upgrade" to Graph API  
10 v. 2.0, which had the effect of eliminating the access of most Developers, including Styleform's  
11 access, to the most widely used and important Graph API endpoints. Styleform's Apps would not  
12 function at all without access to these Graph API endpoints, so Facebook's requirement that  
13 Styleform "upgrade" its Apps to Graph API v. 2.0 was not realistic or possible, and Facebook  
14 knew it was not realistic or possible. The Developer dashboard for Styleform's Apps included  
15 notices to "upgrade" when Facebook knew "upgrading" was not feasible or possible.

16 63. By deciding to end access to Graph API, Facebook made it impossible for  
17 Styleform to build a viable business with its Apps, to abide by the license agreements and  
18 purchase terms entered into by Styleform with its clients and the Apps' end users, and for  
19 Styleform to recoup any of its investment of capital, human labor, time, effort and energy. If  
20 Styleform had known that Facebook had made the decision to remove access to the Graph API in  
21 late 2012 but remarkably waited until April 2015 to actually end such access, then Styleform  
22 never would have invested capital and resources in building applications on Facebook Platform.

23 64. Each one of Styleform's Apps' users entered into a license agreement with  
24 Styleform. Facebook requires Developers to enter into license agreements with users of  
25 applications for Facebook. These license agreements must, among other things, require that the  
26 users of these applications adhere to Facebook's terms of service. All Developers must agree to  
27 these terms prior to accessing any Graph API endpoints.

28 65. Accordingly, Defendants knew, or should have known, about the existence of

1 Styleform's license agreements with its users, since Facebook required Styleform to enter into  
2 such license agreements. Further, Defendants circulated spreadsheets containing over 40,000  
3 businesses who would violate their license agreements with their end users as a result of the  
4 Facebook Platform Extortion Scheme. These spreadsheets were shared directly with Zuckerberg  
5 and prepared at his request. The overwhelming majority of the businesses on these spreadsheets  
6 were law-abiding businesses who did not violate user privacy or trust and to which Facebook had  
7 never sent any notice of any policy or privacy violation.

8         66. On or about April 30, 2015, Facebook ended Developer access to the Graph API  
9 endpoints, including friend list and friend permissions data, to all Developers except those that  
10 entered into separate agreements with Facebook for special access, which was typically only  
11 granted once those Developers also agreed to make unrelated advertising purchases or provide  
12 other valuable consideration. Styleform was never given the opportunity to be extorted by  
13 Facebook and thus had no opportunity to continue to access the privatized Graph API endpoints.  
14 As a result, it became impossible for Styleform to build a business from its Apps.

15         67. On September 21, 2015, the Wall Street Journal reported that Facebook's decision  
16 to restrict access to Graph API caused a drug addiction researcher to halt his research efforts, shut  
17 down a voter-registration tool used by the 2012 Obama campaign, and decommissioned an App  
18 designed to help first generation college students connect with one another (see Deepa  
19 Seetharaman & Elizabeth Dwoskin, "Facebook's Restrictions on User Data Cast a Long Shadow;  
20 Curbs disrupt startups, academic research and even political strategy", *The Wall Street Journal*,  
21 Sept. 22, 2015, at B1, available at <http://www.wsj.com/articles/facebooksrestrictionsonuser>  
22 [datacastalong shadow1442881332](http://www.wsj.com/articles/facebooksrestrictionsonuser)). *The Wall Street Journal* also reported in the same article that  
23 Facebook reached an unspecified compromise with dating App Tinder that permitted some form  
24 of access to photos of mutual friends.

25         68. In all, over 5,000 businesses entered into special agreements with Facebook while  
26 35,000 businesses had no opportunity to do so. For instance, Tinder provided highly valuable  
27 unrelated financial consideration, including intellectual property, to Facebook in exchange for its  
28 special access to APIs. Tinder was one of seven dating apps that Facebook agreed to give special

1 access in order to wipe out all other competitive dating applications from the Platform. Many  
2 dating apps have historically relied heavily on Facebook to identify potential dates. By restricting  
3 the APIs that enable this access to all but seven dating applications, Facebook gave Tinder and six  
4 other dating apps effective control of the entire dating industry. Zuckerberg directed his  
5 subordinates to enter into these arrangements in 2014 and 2015 because at the time he did not find  
6 the dating market attractive enough for Facebook to enter.

7 69. Philanthropy and lifestyle applications like those built by Styleform were  
8 considered more competitive than dating applications. In fact, Facebook has since launched its  
9 own applications related to the Apps built by Styleform after shutting down Styleform and many  
10 other businesses in these categories. Had Facebook refrained from the Facebook Platform  
11 Extortion Scheme, Styleform could have generated additional significant contracts with paying  
12 clients to build its business on Facebook Platform. Further, Styleform engaged in discussions  
13 with a potential acquirer to purchase Styleform, a substantial portion of the acquisition plan  
14 depended upon Styleform's business building Facebook applications, and the Facebook Platform  
15 Extortion Scheme negatively impacted these acquisition discussions and decreased the value of  
16 Styleform's business. Styleform could have been acquired for an amount in the range of the low  
17 seven figures in U.S. dollars but for Facebook's anti-competitive conduct. In total, Styleform was  
18 induced due to Defendants' fraudulent conduct to expend capital and uncompensated labor in  
19 developing and maintaining the Pink Ribbon App, the Climate Smart App, the New Year  
20 Resolutions App, and other software, from 2007 through at least 2015 in the mid six figures in  
21 U.S. dollars, to be determined at trial.

22  
23 **IV. ZUCKERBERG LAUNCHES FACEBOOK PLATFORM IN MAY 2007,  
PROMISING EQUAL ACCESS AND A LEVEL PLAYING FIELD**

24 70. At 3PM PDT on May 24, 2007, Zuckerberg made a self-described revolutionary  
25 announcement to a crowded room of software developers in San Francisco. Zuckerberg  
26 announced the launch of Facebook Platform, which he had described weeks earlier in an  
27 interview with Fortune magazine as "the most powerful distribution mechanism that's been  
28 created in a generation." He went on in the Fortune interview to describe the motivation for

1 creating Facebook Platform in this way: “We want to make Facebook into something of an  
2 operating system so you can run full applications,” specifying that this development was the  
3 internet-equivalent to what Microsoft did with Windows, which allowed other developers to build  
4 applications for PCs. (See [http://archive.fortune.com/2007/05/24/technology/facebook.fortune/](http://archive.fortune.com/2007/05/24/technology/facebook.fortune/index.htm)  
5 [index.htm](http://archive.fortune.com/2007/05/24/technology/facebook.fortune/index.htm).)

6 71. In fact, Zuckerberg’s first demonstration of Facebook Platform was purportedly to  
7 Bill Gates in early May 2007. Microsoft and Facebook had reached an agreement for Microsoft to  
8 purchase banner ads on Facebook in which Microsoft had guaranteed Facebook a minimum of  
9 \$100 million per year through 2011. Facebook Platform was positioned by Facebook to Microsoft  
10 as the driving force behind meeting Facebook’s ambitious growth metrics. At the time of this  
11 announcement, Facebook had just exceeded 20 million active users and had raised only \$37.7  
12 million in venture capital investment. Even at this modest point in Facebook’s growth, its photo  
13 sharing application was the largest photo application on the Internet, and according to Facebook’s  
14 own internal statistics, drew more than twice the traffic of the next three photo sites combined at  
15 the time of the May 24, 2007 announcement of Facebook Platform.

16 72. Zuckerberg announced that the three key elements of Facebook Platform were  
17 “deep integration, mass distribution, and new opportunity.” These were three key themes he  
18 would repeat throughout the day and for years to come in numerous public conversations and  
19 presentations. (See <https://gigaom.com/2007/05/24/live-at-the-facebook-launch/>.) Thus,  
20 Zuckerberg made three distinct representations of fact: (1) Developers would have deep  
21 integration with Facebook’s social graph; (2) Developers would have Facebook’s support in  
22 achieving mass distribution of their applications; and (3) Developers would have an opportunity  
23 to build a business on Facebook.

24 73. By 8PM that evening, these key elements were memorialized on Facebook’s  
25 website with the official announcement “Facebook Platform Launches”, stating “You can now  
26 build applications that have the same access to integration into the social graph as Facebook  
27 applications, such as photos, notes, and events.... The power of mass distribution is now in your  
28 hands. You can gain distribution for your applications through the social graph like never before.

1 Applications can be virally engineered to reach millions of Facebook users quickly and efficiently  
2 through the profile, news feed, and mini-feed.... With access to deep integration into the site, and  
3 mass distribution through the social graph comes a new opportunity for you to build a business  
4 with your application. You are free to monetize your canvas pages through advertising or other  
5 transactions that you control.” (See “Facebook Platform Launches,” [http://web.archive.org/web/](http://web.archive.org/web/20070706002021/http://developers.facebook.com/news.php?blog=1&story=21)  
6 [20070706002021/http://developers.facebook.com/news.php?blog=1&story=21](http://developers.facebook.com/news.php?blog=1&story=21)). Facebook’s  
7 announcement thus represented that (1) Developers have the “same access to integration” for  
8 applications such as photos and notes as Facebook employees; (2) Developers are able to  
9 distribute applications through Facebook Platform; and (3) Developers are able to monetize  
10 applications through Facebook Platform.

11 74. Zuckerberg went on to say: “The social graph is our base, and we’ve built a  
12 framework that is completely optimized for developing social applications within our  
13 environment.... We believe that there is more value for everyone in letting other people develop  
14 applications on top of the base we’ve built than we could ever possibly provide on our own....  
15 This is good for us because if developers build great applications then they’re providing a service  
16 to our users and strengthening the social graph.... This is a big opportunity. We provide the  
17 integration and distribution and developers provide the applications. We help users share more  
18 information and together we benefit.” Zuckerberg thus represented that Facebook was committed  
19 long term to serving as a platform that enables Developers to build applications on a level playing  
20 field because it is a big opportunity for everyone.

21 75. Zuckerberg then announced that Facebook had been working with over 70  
22 developers in anticipation of the launch of Facebook Platform, including Amazon, Forbes, iLike,  
23 Lending Club, Microsoft, Obama for America, Photobucket, Red Bull, Twitter, Uber, Virgin  
24 Mobile USA, Warner Bros, Washington Post and many others. (See live blog of F8 event from  
25 leading Internet blogger, Mashable, at [http://mashable.com/2007/05/24/facebook-f8-](http://mashable.com/2007/05/24/facebook-f8-live/#CIfbgFfPV5q0)  
26 [live/#CIfbgFfPV5q0](http://mashable.com/2007/05/24/facebook-f8-live/#CIfbgFfPV5q0).)

27 76. Around 4PM during Zuckerberg’s presentation, he announced five case studies  
28 from these early developer partners aimed at showing how easy it was for all developers to

1 integrate with Facebook Platform. Zuckerberg distributed case studies from Red Bull, Box.net,  
2 Lending Club, Microsoft and Slide.com. Zuckerberg continued to emphasize during this public,  
3 annual keynote to Developers that Facebook Platform is the single biggest and most revolutionary  
4 change to Facebook since its inception, stating: “Every once in a while a platform comes along  
5 that allows people to build a completely new application—sometimes even start new industries”  
6 (see <https://gigaom.com/2007/05/24/live-at-the-facebook-launch/>).

7 77. GigaOm, a leading Internet blogger, live blogged the event and further quoted  
8 Zuckerberg as saying: “With photo-sharing, he explained, ‘it’s not just the photos that spread, it’s  
9 the whole photos application’. Third-party applications won’t be treated like second-class citizens  
10 on Facebook, he says; users can add them to their profiles and drag them and drop them to their  
11 content. Applications can use Flash, JavaScript, and Silverlight if a user approves them. Outside  
12 applications can issue unlimited notifications to users, and fit into the Facebook environment by  
13 accessing a ‘friend selector’ that spits out each user’s connections. Now Zuckerberg says you can  
14 serve ads on your app pages and keep all the revenue, sell them yourselves or use a network, and  
15 process transactions within the site, keeping all the revenue without diverting users off Facebook”  
16 (see <https://gigaom.com/2007/05/24/live-at-the-facebook-launch/>). Zuckerberg thus represented  
17 that (1) developer applications won’t be second class citizens; (2) developer applications can  
18 access a user’s connections and related user data made available in the social graph; and (3)  
19 developer applications can sell ads through the Facebook Platform.

20 78. This grandiose language from Zuckerberg sparked substantial questions from the  
21 Developer community so by 4:20 p.m. pacific (1 hour and 20 minutes after the keynote had  
22 started), Facebook released the official “Facebook Platform FAQ”, which was being circulated  
23 across the Internet and available on Facebook’s official website to educate developers on this  
24 announcement. The Facebook Platform FAQ was an official document released by Facebook to  
25 address material facts that enabled Developers to make an informed decision around whether to  
26 invest capital and resources in building applications for Facebook Platform (see Exhibit 1,  
27 “Facebook F8 and Platform FAQ.”) The Facebook Platform FAQ states, *inter alia*:  
28



1 **What is Facebook Platform?** Facebook Platform is a development system that  
2 enables companies and developers to build applications for the Facebook website,  
3 where all of Facebook's 24 million active users can interact with them. Facebook  
4 Platform offers deep integration in the Facebook website, distribution through the  
5 social graph and an opportunity to build a business.

6 \* \* \*

7 **What's new in Facebook Platform?** We've been adding functionality since  
8 Facebook Platform first shipped in beta in August 2006. With the latest evolution  
9 of Facebook Platform however, third-party developers can now create  
10 applications on the Facebook site with the same level of integration as  
11 applications built by internal Facebook developers. Now developers everywhere  
12 have the ability to create Facebook applications that deeply integrate into the  
13 Facebook site, as well as the potential for mass distribution through the social  
14 graph and new business opportunities.

15 \* \* \*

16 **Why did Facebook launch Facebook Platform?** Our engineers have created  
17 great applications for Facebook, but we recognized that third-party developers can  
18 help us make Facebook an even more powerful social utility. Facebook Platform  
19 gives developers everywhere the tools to create applications that we just wouldn't  
20 have the resources to build in-house, and those applications make Facebook an  
21 even better way for our users to exchange information. Developers also benefit  
22 from the Facebook Platform as it gives them the potential to broadly distribute  
23 their applications and even build new business opportunities.

24 \* \* \*

25 **What kinds of applications can be built on Facebook Platform?** The kinds of  
26 applications developers can build on Facebook Platform are limited only by their  
27 imaginations. Because applications are based on the Facebook social graph they  
28 can be more relevant to users, keeping people in touch with what and whom they  
care about. We've already seen a variety of applications built by our developer  
partners, including those for sharing media files, book reviews, slideshows and  
more. Some of the possibilities of Facebook applications are illustrated in the  
Facebook Platform Application Directory, available at <http://facebook.com/apps>.

\* \* \*

**Are there any restrictions on what developers can build?** Developers are  
encouraged to exercise their creativity when building applications. Of course, all  
applications are subject to the Terms of Service that every developer agrees to,  
which include basic requirements such as not storing any sensitive user  
information, not creating any offensive or illegal applications, and not building  
anything that phishes or spams users. And users will always have the power to  
report any applications that compromise Facebook's trusted environment, keeping  
our users' information safe.

\* \* \*

**How will Facebook deal with applications that compete with one another or  
even compete with Facebook-built applications?** We welcome developers with  
competing applications, including developers whose applications might compete  
with Facebook-built applications. Many applications are likely to offer similar  
features. We've designed Facebook Platform so that applications from third-party  
developers are on a level playing field with applications built by Facebook.

1 Ultimately, our users will decide which applications they find most useful, and it  
2 is these applications that will become the most popular.

3 \* \* \*

4 **Can Facebook applications include ads?** We want to enable developers to build  
5 a business on their Facebook applications, so we're giving developers the freedom  
6 to monetize their applications as they like. Developers can include advertising on  
7 their applications' canvas pages, though no advertising will be allowed within the  
8 application boxes that appear within user profiles.

9 \* \* \*

10 **Are you going to share revenue with developers?** While revenue sharing is not  
11 available at launch, we are looking into ways to share advertising revenue with  
12 developers. The version of Facebook Platform already lets developers monetize  
13 their applications as they like, whether they choose to offer it for free or to build a  
14 business on their application.

15 79. In sum, these representations by Facebook reflected the following explicit  
16 promises to Developers:

- 17 a. Developers would have "deep integration";
- 18 b. Developers would have access to the "social graph";
- 19 c. Developers would have "an opportunity to build a business."
- 20 d. Developers would have the same level of integration and ability to develop  
21 apps in the same manner as internal Facebook developers;
- 22 e. Facebook shall provide adequate tools necessary for Developers to build their  
23 applications;
- 24 f. Facebook shall help Developers achieve broad distribution of their  
25 applications;
- 26 g. So long as applications abide by Facebook's Terms of Service, Developer  
27 Policies and other binding commitments Developers make in order to  
28 participate in Facebook Platform, Facebook will remain neutral as to the  
applications built on its operating system;
- h. Any application that does not violate its agreement with Facebook, phish or  
spam users, contain offensive material, or break the law shall be accepted in  
Facebook Platform;
- i. Competing applications are welcome on Facebook's operating system,

- including those that compete with Facebook’s own applications;
- j. Facebook will remain neutral among competing applications, including those that compete with Facebook;
  - k. Applications similar in purpose and content will be allowed to compete on a “level playing field,” which is defined as open and fair market competition whereby users will ultimately decide which applications win the market, not Facebook or other third parties;
  - l. Implicit in this definition of fairness and market adoption based on consumer choice, Facebook represented it shall take no actions to promote its own applications, or preferred applications from Developers who have a special relationship with Facebook, in order to slant the playing field in a manner that makes it less likely for users ultimately to decide the winners in the market;
  - m. Facebook shall enable Developers to build businesses on their operating system by directly monetizing their applications on Facebook;
  - n. Developers shall *not* be required to purchase advertising on Facebook Platform in order to access Graph API endpoints;
  - o. Developers will be able to sell ads on their application pages; and
  - p. Developers will have a choice as to whether they monetize their application on Facebook’s operating system.

**V. DEVELOPERS RESPOND ENTHUSIASTICALLY TO FACEBOOK PLATFORM, BUT BY 2009, ZUCKERBERG IS ALREADY SECRETLY IDENTIFYING WAYS TO WEAPONIZE THEIR RELIANCE**

80. The blogging community went into an immediate and prolonged frenzy over Zuckerberg’s announcement. Paul B. Allen, founder of Ancestry.com and well-known Internet blogger, summed up the general sentiment expressed by countless bloggers when he wrote that same day, “I saw history in the making today...I was lucky enough to be in San Francisco for the Facebook F8 Platform launch event. This announcement was at least an 8.0 on the Richter scale. It was a whopper.... A huge new opportunity was presented to the few hundred people in the

1 room, including 65 companies that have spent the last few weeks developing applications for the  
2 launch of Facebook Platform. Facebook is inviting anyone to develop applications for their users  
3 on top of what Mark calls their ‘social graph’ – the core of their service which basically keeps  
4 track of real people and their real connections to each other.... [Facebook’s] growth will be  
5 dramatically accelerated by the Platform announcement. If Facebook is adding 100,000 new users  
6 per day with its own few simple applications (like its photo sharing, a very simple service that has  
7 given Facebook twice as many photos as all other photo sharing sites combined), what will  
8 happen when thousands or tens of thousands of developers start building apps in Facebook and  
9 marketing them to more users? Facebook will reach 50 million, then 100 million, then 200  
10 million users, and beyond. Rather than continue to try to develop features within its own  
11 proprietary, closed network, basically keeping all of its users to itself...Facebook intuitively gets  
12 the concepts that are so brilliantly discussed in Wikinomics (which are so non-intuitive to old  
13 school business types), and has chosen to open up its network for all to participate  
14 in...Application developers can now have access to core Facebook features, such as user profiles  
15 and user connections, and even publishing to the News Feed, all with the control and permission  
16 of Facebook users...When Facebook has 100 million users, in the not too distant future, having  
17 the ability to develop an App in their system will almost be like being able to get a link on  
18 Google’s own home page.” (See [http://www.paulallen.net/prediction-facebook-will-be-the-](http://www.paulallen.net/prediction-facebook-will-be-the-largest-social-network-in-the-world/)  
19 [largest-social-network-in-the-world/](http://www.paulallen.net/prediction-facebook-will-be-the-largest-social-network-in-the-world/).)

20 81. To Developers, Facebook Platform represented not just an entirely new operating  
21 system, but an economy that could reorganize the entire Internet (potentially replacing Google as  
22 the dominant form of organizing the World Wide Web and replacing Windows and Macintosh as  
23 the primary operating system for developing software applications). The sentiment among  
24 Developers, as widely held throughout the industry and reported by popular sites like TechCrunch  
25 and the Wall Street Journal, was that if you weren’t building for Facebook Platform, you were  
26 going to be left behind (see [http://techcrunch.com/2007/05/24/facebook-launches-facebook-](http://techcrunch.com/2007/05/24/facebook-launches-facebook-platform-they-are-the-anti-myspace/)  
27 [platform-they-are-the-anti-myspace/](http://techcrunch.com/2007/05/24/facebook-launches-facebook-platform-they-are-the-anti-myspace/) and [http://www.wsj.com/public/article/](http://www.wsj.com/public/article/SB117971397890009177-wjdKPMjAqS_9ZZbwiRp_CoSqvWQ_20070620.html)  
28 [SB117971397890009177-wjdKPMjAqS\\_9ZZbwiRp\\_CoSqvWQ\\_20070620.html](http://www.wsj.com/public/article/SB117971397890009177-wjdKPMjAqS_9ZZbwiRp_CoSqvWQ_20070620.html)).

1           82.     Facebook and the Developers who were selected to participate in the private beta  
2 of Facebook Platform quickly set out to make Developers comfortable with this grandiose vision  
3 and create a level of comfort to induce them to participate in this entirely new industry. For  
4 instance, on May 29, 2007, just five days after Zuckerberg's announcement of Facebook  
5 Platform, Venture Beat, the popular tech blog, interviewed iLike founder, Ali Partovi, who was  
6 also an early advisor and shareholder of Facebook:

7  
8           **Interviewer:** Tell me about your experiences with Platform so far. You've been  
9 working on putting iLike on Facebook for several months now. Yet on the  
10 integration since Friday morning, there have been bugs and other issues on  
11 iLike's end. What's the status?

12           **Partovi:** So, first to give you the back-story on how we got involved. Over the  
13 past several months, we've pushed and pushed with Facebook asking for some  
14 sort of exclusive relationship. They repeatedly said they won't do an exclusive  
15 relationship but would rather create a level playing field where we could compete  
16 with other third parties. We then gave up a bit, and we were actually a bit late to  
17 the game learning about the platform in detail. But when we finally did get access,  
18 our President, Hadi Partovi (my twin brother) took very little time to decide this  
19 was a huge strategic priority. That was a month ago. We re-prioritized everything  
20 else, and started moving our people off other projects onto this. First two or three  
21 people, then a few more, and by the end it was a huge group of engineers pulling  
22 back-to-back all-nighters for a week-long sprint to the launch.

23           **Interviewer:** What made iLike think that Facebook Platform would be a big deal?  
24 What stood out about it?

25           **Partovi:** Hadi has a strong background in the concept of platforms...at 24 he  
26 became the head of product management in the IE group at Microsoft, and was a  
27 key player in the browser wars. A month ago, even though the Facebook Platform  
28 wasn't fully fleshed out, he saw just from the early beginnings of it that this could  
29 redefine web development. What he said was, 'in the history of computing, there  
30 was the personal computer, there was Windows, there was the web, and now the  
31 Facebook Platform'. You can imagine that I and most our company was pretty  
32 skeptical. But he makes these calls so we followed him. As to what stood out, it's  
33 a combination of three things: (1) the technology itself – Facebook Platform, like  
34 any platform, offers the developer building blocks to build apps faster than they  
35 could if they were starting from scratch, and to tap into a rich source of data &  
36 capabilities that would never otherwise be available; (2) the potential for viral  
37 spread – due to the way the Facebook news feed works, an app can spread across  
38 the community entirely by viral spread, as friends get notified when one person  
39 adopts it...this essentially bypasses the idea of trying to make your app 'viral' as a  
40 standalone, because Facebook is itself naturally viral; (3) the rhetoric from the

1 Facebook management team, starting from the CEO himself, made it clear that  
2 they have a long-term commitment to a level playing field. For example, they  
3 absolutely refused to give us any special advantage, insisting that the market  
4 needs to see a level playing field...we offered them ownership in our company,  
5 money, etc. – but they had no interest. Furthermore, they built and launched their  
6 own ‘video’ app, but left it to ‘compete’ on its own merits alongside other third-  
7 party apps rather than making it ‘pre-installed’ for all Facebook users.<sup>1</sup> So #1 and  
8 #2 made this something we had to jump on, and #3 made us comfortable with the  
9 long-term strategic implications (see [http://venturebeat.com/2007/05/29/qa-with-  
10 ilikes-ali-partovi-on-facebook/](http://venturebeat.com/2007/05/29/qa-with-ilikes-ali-partovi-on-facebook/).)

11 83. Partovi’s comments immediately following Zuckerberg’s announcement serve  
12 both to reflect the general sentiment held by Developers – that Facebook had made clear its long-  
13 term commitment to a level playing field and equal access to data for all Developers – and to  
14 show how Facebook’s allies (Partovi was an early advisor and shareholder), were committed to  
15 helping Facebook grow its new operating system quickly and induce developers to participate  
16 with large investments of capital. After all, iLike saw massive growth in the two years following  
17 its decision to build on the Facebook Platform.

18 84. Three days after Partovi’s Q&A with Venture Beat, on June 1, 2007 Facebook  
19 released its own statement further clarifying its intentions with Facebook Platform, entitled  
20 “Platform is Here”: “Last Friday, we promised more information, so here it is.... With this  
21 evolution of Facebook Platform, we’ve made it so that any developer can build the same  
22 applications that we can. And by that, we mean that they can integrate their application into  
23 Facebook—into the social graph—the same way that our applications like Photos and Notes are  
24 integrated” (see <https://www.facebook.com/notes/facebook/platform-is-here/2437282130/>). Thus,  
25 Facebook promised that Developers would be able to build applications in the same way that  
26 Facebook can by accessing the social graph. As recently as October 1, 2018, this official  
27 statement remained available on Facebook’s official website.

28 85. Throughout the summer of 2007, Facebook remained on a charm offensive about  
its long-term commitment to developers on Facebook Platform. Facebook held numerous  
Hackathons and Developer Meetups in various cities to introduce new developers to Facebook

1 Platform, it launched a Developer Feed and Wiki on its website to educate the Developer  
2 community on the benefits of Facebook Platform and help them more seamlessly invest their  
3 capital and resources towards building applications on the Facebook Platform. Facebook also held  
4 contests with prizes for developers. Zuckerberg continued to emphasize the revolutionary impact  
5 Facebook Platform would have on the Internet as a whole during this time. For instance, on July  
6 17, 2007, Zuckerberg was interviewed by Time Magazine:

7 **Time:** the frenzy surrounding Facebook seems to have intensified quite  
8 dramatically over the past several months. What do you think is behind the  
9 company's newfound cachet?

10 **Zuckerberg:** I think the most recent surge, at least in the press, is around the  
11 launch of Facebook Platform. For the first time we're allowing developers who  
12 don't work at Facebook to develop applications just as if they were. That's a big  
13 deal because it means that all developers have a new way of doing business if  
14 they choose to take advantage of it. There are whole companies that are forming  
15 whose only product is a Facebook Platform application. That provides an  
16 opportunity for them, it provides an opportunity for people who want to make  
17 money by investing in those companies, and I think that's something that's pretty  
18 exciting to the business community" (see [http://content.time.com/time/](http://content.time.com/time/business/article/0,8599,1644040,00.html)  
19 [business/article/0,8599,1644040,00.html](http://content.time.com/time/business/article/0,8599,1644040,00.html)).

20 86. In these public statements to Time Magazine, Zuckerberg made at least four  
21 distinct promises: (1) Facebook would allow developers to build applications as if they were  
22 developers employed by Facebook; (2) Facebook would offer developers on Facebook Platform a  
23 new way of doing business; (3) Facebook would support an ecosystem where entire companies  
24 could be formed whose sole business activity was within the Facebook Platform ecosystem; and  
25 (4) Facebook would support an ecosystem where investors could reasonably rely on Facebook to  
26 make money by investing in companies solely devoted to the Facebook Platform ecosystem.

27 87. Then on September 17, 2007, Facebook went even further by setting up a \$10  
28 million fund exclusively devoted to providing grants to Developers to build on Facebook  
Platform. Facebook and its partners in the fund would not even take equity in the Developer; they  
were offering free money to build applications on Facebook Platform with the only commitments  
being that the grantee use the money to build on Facebook Platform and that Facebook's partners  
would have the opportunity to invest first if they were interested in doing so. When asked why

1 Facebook was forming this fund, it replied: “We are forming this fund to help grow the Facebook  
2 application ecosystem. By decreasing the barrier to start a company, we hope to entice an even  
3 larger group of people to become entrepreneurs and build a compelling business on Facebook  
4 Platform. We hope this is also a funding model that other venture capitalists will follow” (see  
5 <http://500hats.typepad.com/500blogs/2007/09/facebook-announ.html>).

6 88. Facebook’s conduct in providing free money to Developers to build applications  
7 on Facebook Platform implies a specific promise that it will support Developers’ opportunity to  
8 build a compelling business on Facebook Platform and that it is committed long-term to the  
9 stability of Facebook Platform as an ecosystem that can support substantial investment and where  
10 investors who participate in that ecosystem can expect a level playing field upon which to  
11 generate a return on that investment.

12 89. Indeed, others were quick to follow Facebook’s lead in making investors  
13 comfortable with supporting this new industry with large sums of capital. Numerous venture  
14 capital firms or funds were soon established that invested solely in Facebook applications. In  
15 September 2007, Wired Magazine reported the following: “And by turning itself into a platform  
16 for new applications, Facebook has launched a whole new branch of the software development  
17 industry, just like Bill Gates did with MS-DOS in the 1980s. By allowing developers to charge  
18 for their wares or collect the advertising revenue they generate, Zuckerberg set up a system for  
19 every programmer to get paid for their efforts. Now venture capitalists like Bay Partners are  
20 scrambling to fund almost anyone who has an idea for a Facebook application” (see  
21 [https://archive.wired.com/techbiz/startups/news/2007/09/ff\\_facebook?currentPage=all](https://archive.wired.com/techbiz/startups/news/2007/09/ff_facebook?currentPage=all)).

22 90. As a result of Facebook’s tremendous efforts in inducing Developers to build  
23 applications on Facebook Platform and promising them access to the Graph on neutral and equal  
24 terms, Facebook Platform quickly became, in the words of *AdWeek*, “the most viral software  
25 distribution system ever.” The overall traffic to Facebook increased by 33% within three weeks of  
26 the announcement. By December, the Facebook user base had grown from 24 million at the time  
27 of the announcement to 58 million, a 141% increase. Where Facebook had been adding about  
28 100,000 new users per day prior to Facebook Platform and the input of Developers it catalyzed, it



1 was now adding more than 250,000 users per day (see [http://www.adweek.com/socialtimes/top-](http://www.adweek.com/socialtimes/top-10-facebook-stories-of-2007/211540)  
2 10-facebook-stories-of-2007/211540).

3 91. While it touted Facebook Platform to Developers around the world, Facebook did  
4 not state or even imply that access to Facebook Platform might later be rescinded or provided on  
5 an unequal basis. In fact, Facebook repeatedly promised that access would be provided on an  
6 equal basis relative to Facebook and other developers. However, during this time, Facebook, in  
7 fact, provided special, unequal access to the Social Graph to large Developers who were close  
8 partners of Facebook and made substantial unrelated advertising payments to Facebook to the  
9 systematic disadvantage of smaller Developers. This fact was not made known to or reasonably  
10 discoverable by the Developer community at large, including Styleform, at the time preferential  
11 access was being given as early as 2007.

12 92. By the end of 2009, in large part due to Facebook Platform's success in inducing  
13 Developers to make investments in this new ecosystem, Facebook's user growth had skyrocketed  
14 from 24 million active users at the time of the announcement of Facebook Platform in May 2007  
15 to over 350 million users in December 2009.

16 93. In late 2009, Facebook released a document "A Look Back on the App Economy  
17 of Facebook in 2009," in which it cited numerous success stories. For instance, Facebook app  
18 Playfish was acquired by Electronic Arts that year for no less than \$275 million. Watercooler, a  
19 leading fantasy sports application on the Facebook Platform, successfully raised \$5.5 million to  
20 fuel its growth. Weardrobe was acquired by Like.com for an undisclosed sum. The document,  
21 published by the Director of the Facebook Developer Network, ended: "We'd like to say thank  
22 you to the developers and entrepreneurs who make up the Facebook Platform ecosystem and  
23 congratulations on your accomplishments in 2009" (see [http://web.archive.org/web/](http://web.archive.org/web/20091223055629/http://developers.facebook.com/news.php?blog=1&story=351)  
24 20091223055629/http://developers.facebook.com/news.php?blog=1&story=351).

25 94. Because Facebook's user growth skyrocketed from 2007 to 2009 and Facebook  
26 was becoming the dominant Platform on the Internet due to its Developer ecosystem, Facebook  
27 executives began secretly to discuss ways to undermine the success of Developers by promoting  
28 Facebook's own products to users and give Facebook's own products a competitive advantage

1 because of Facebook's unique position as the manager and policeman of its Platform. Thus,  
2 Facebook began extorting certain Developers privately and making changes to its APIs with the  
3 sole goal of stemming the growth of Developers it began to consider competitors.

4 95. For instance, in a related lawsuit, *Six4Three, LLC v. Facebook, Inc., et al.* (filed on  
5 April 10, 2015 in San Mateo Superior Court, Case No. 533328), Ali Partovi, the founder of iLike  
6 who was touting the benefits of Facebook Platform in 2007, testified that Facebook's senior  
7 executive in charge of Platform told him in a meeting in 2009 that if iLike did not sell to  
8 Facebook for a price much lower than its market value at the time, then Facebook would shut  
9 iLike down and destroy its business:

10 I mean, the most salient thing I remember was that there – Ethan [Ethan Beard,  
11 former head of Facebook Platform] said at some point, you know - you know, that,  
12 "We," meaning Facebook, "could acquire you, but not for very much." And I  
13 remember asking, "Why not for very much?" and him saying, "Because we could  
14 just shut you down." And the reason this, you know, has stuck in my memory is  
15 because I took it as somewhat of a threat, and I - I don't know whether he intended  
16 it to be conveyed as a threat or just a, you know, passing observation on his part,  
17 but I remember immediately notifying other people on my team that now  
18 Facebook has articulated this explicit threat. I don't - it had never been articulated  
19 before, that they could - or that they would consider arbitrarily shutting us down.  
20 And, you know, when you're threatened, it only takes once. You don't forget it. So  
21 from that point on, we lived under that threat.

22 96. After this meeting between Partovi and Beard, Facebook then implemented actions  
23 to make it impossible for iLike to maintain parity with other products, including Facebook's own  
24 products, and ultimately iLike was forced to terminate hundreds of employees and sell to  
25 MySpace at a price far below its market valuation prior to Facebook's threat and subsequent anti-  
26 competitive conduct. Many other Developers experienced similar threats and anti-competitive  
27 actions from 2009 through present.

## 23 VI. FACEBOOK LAUNCHES GRAPH API IN 2010 TO CONTINUE TO INDUCE 24 DEVELOPERS TO RELY ON FACEBOOK PLATFORM

25 97. On or about April 21, 2010, Facebook announced the launch of Graph Application  
26 Programming Interface ("Graph API") as a key new component of Facebook Platform at F8, its  
27 annual Developer conference. Graph API streamlined and formalized the process whereby  
28 Developers, with the consent of Facebook users, could perform actions, build software and in

1 some cases access user data with the consent of users.

2 98. Facebook represented that Developers could only access capabilities (referred to as  
3 “endpoints”) with explicit permission from Facebook users. Examples of endpoints include a  
4 user’s birthdate, favorite songs, or photos. During the announcement of Graph API, Facebook  
5 touted several features of Graph API endpoints in order to increase its appeal to Developers,  
6 including Styleform.

7 99. Specifically, at the F8 Conference 2010, Zuckerberg announced: “The open graph  
8 puts people at the center of the web – it means that the web can become a set of personally and  
9 meaningfully semantic connections between people...Three years ago at our first F8 we launched  
10 Facebook Platform, and together we all started an industry...We think what we have to show you  
11 today will be the most transformative thing we’ve ever done for the web...Use the open graph to  
12 make it so that people can have instantly social and personalized experiences everywhere they go.  
13 We’re gonna be announcing a few pieces of new technology that make this possible – the first is  
14 the Graph API – makes it completely simple to read connections to Facebook’s map of the  
15 graph...implemented on top of an open standard” (see [https://www.youtube.com/watch?](https://www.youtube.com/watch?v=4SOcRKINiSM)  
16 [v=4SOcRKINiSM](https://www.youtube.com/watch?v=4SOcRKINiSM)).

17 100. After Zuckerberg completed his keynote at F8 2010, Bret Taylor, a Facebook  
18 executive, further explained what Graph API meant for Developers: “With Graph API every  
19 object in Facebook has a unique ID, whether that object is a user profile, event, etc....you just  
20 need to download an object with a new ID or download a connection with a new name. So to  
21 download my friends you just need to download /btaylor /friends... And this applies for every  
22 single object in Facebook. So let’s say Facebook launches a new feature next year. We’re not  
23 gonna make you download a new SDK. You just need to download an object with a new ID or  
24 download a connection with a new name. All of the code you already wrote will continue to work  
25 perfectly. This is a really significant change for our new platform that I’m sure you can  
26 appreciate. For the first time via the search capability of the Graph API, we’re giving developers  
27 the capability to search over all the public updates on Facebook. I think this is gonna lead to a  
28 bunch of cool new applications and I’m really excited to see where people go with this.... We’ve

1 built our core of the Facebook Platform from the ground up with simplicity, stability, and the  
2 graph in mind. This graph that for the first time we're building together" (see [https://www.you](https://www.youtube.com/watch?v=4SOcRKINiSM)  
3 [tube.com/watch?v=4SOcRKINiSM](https://www.youtube.com/watch?v=4SOcRKINiSM)).

4 101. Facebook executive Bret Taylor thus promised that: (1) Developers could access  
5 Graph API objects in a simple manner ("you just need to download an object with a new ID"); (2)  
6 the accessible objects were ubiquitous ("this applies for every single object in Facebook"); (3) the  
7 access would be sustained and could be relied upon by developers ("All of the code you already  
8 wrote will continue to work perfectly...We're not gonna make you download a new SDK") (a  
9 Software Development Kit (or "SDK") is a set of software development tools that allows for the  
10 creation of applications for a particular operating system); (4) Developers could search over all  
11 objects for all public updates on Facebook; and (5) Facebook Platform guaranteed simplicity,  
12 stability and the ability to access and help build the Graph with Facebook.

13 102. The software industry uses a common and well-known convention of referring to  
14 software by version number (e.g., version 1.0, 2.0, etc.) to signify the existence of separate  
15 versions of software and to identify a particular version of the software. When Facebook  
16 announced the launch of Graph API, it did not refer to Graph API as having different versions  
17 and did not specify a term for the availability of Graph API. Facebook did not specify a version or  
18 term for Graph API in order to give Developers the impression that it would indefinitely remain  
19 available to them to build a viable business, which takes many years to do in the software  
20 industry. Facebook thereby signified that Graph API's open, equal and neutral nature would not  
21 change or that if it did change, such change would occur on neutral, equal and fair terms with  
22 respect to all Developers. This representation was of course a deliberate decision on Facebook's  
23 part to continue to entice developers by conveying a sense of security around investing time,  
24 money and effort building applications on its revolutionary platform.

25 103. Facebook did not represent that it had reserved the right to terminate access to all  
26 of the social data in its Graph API or that it could provide such access on unequal or anti-  
27 competitive terms. In fact, Facebook repeatedly represented that the unique value of its operating  
28 system relative to Microsoft or Apple was that it was inherently social and open. The idea that

1 Facebook in the future would remove the “social” part of the Social Graph or the “open” part of  
2 the “Open Graph” could not have been reasonably anticipated by Styleform, as such a decision  
3 would (and ultimately did) hollow out the entire premise of Graph API. Quite to the contrary,  
4 Facebook repeatedly expressed its long-term commitment to Graph API and repeatedly expressed  
5 that it would provide data on a level playing field with equal terms to all Developers, relative both  
6 to one another and to Facebook itself.

7 104. This extension of the Facebook Platform ecosystem to further expand its  
8 reorganization potential for the entire Internet contributed even further to Facebook’s meteoric  
9 rise and induced even more investors and Developers to participate in the economy Facebook had  
10 created. By way of example, on October 21, 2010, Facebook partnered with Kleiner Perkins  
11 Caufield & Byers, Zynga and Amazon to launch a \$250 million fund to invest in new apps on the  
12 Facebook Platform. By September 19, 2011, Facebook Platform had created over 182,000 jobs  
13 and \$12.19 billion in value to the U.S. economy. Facebook now boasted over 850 million users as  
14 of late 2011. Facebook would later conspire with Zynga and Amazon to ensure their continued  
15 access to Graph data after the data had been shut off to other Developers like Styleform.

16 105. On September 24, 2011, Facebook further extended its stated long-term  
17 commitment to Facebook Platform by expanding Open Graph to accelerate its reorganization of  
18 the disparate content on the Internet. (See [http://mashable.com/2012/05/24/facebook-developer-](http://mashable.com/2012/05/24/facebook-developer-platform-infographic/#fDCxuACag5qr)  
19 [platform-infographic/#fDCxuACag5qr](http://mashable.com/2012/05/24/facebook-developer-platform-infographic/#fDCxuACag5qr).) In his keynote address at F8 2011 on September 24,  
20 2011, Zuckerberg stated to a packed auditorium of developers: “The next era is defined by the  
21 apps and depth of engagement that is now possible now that this whole network has been  
22 established... In 2007 in our very first F8 I introduced the concept of the social graph, all of the  
23 relationships between people in the world. Last year we introduced the concept of the open graph  
24 as not only the map of all the relationships but all of the connections in the world.... This year,  
25 we’re taking the next step: we’re going to make it so that you can connect to anything you want in  
26 any way you want.... Sometimes I think about what we’re doing with the open graph is helping to  
27 define a brand new language for how people connect...every year we take the next step and make  
28 some new social apps possible. Open graph enables apps that focus primarily on two types of

1 things: the first is filling out your timeline, and the second is helping you discover new things  
2 through your friends.” Facebook thus made at least four distinct representations of fact in this  
3 September 24, 2011 announcement: (1) Facebook has a long-term commitment to the Facebook  
4 Platform and ensuring a fair playing field for developers and has had such a commitment for over  
5 four years now; (2) Facebook is committed to extending the Facebook Platform to provide  
6 developers with more ways to innovate and build businesses; (3) in keeping with this long term  
7 commitment, Facebook will continue to help make new kinds of social apps possible; and (4)  
8 Facebook is in particular focused on helping you discover new things through your friends and  
9 Facebook Platform will enable developers seeking to do so.

10 106. Facebook stated that the extension of the Graph API at F8 2011 was simply the  
11 next step in Facebook’s stated long-term commitment to serve as a platform for other developers,  
12 a commitment that every statement and action it took since May 2007 (a period of well over 4  
13 years) reaffirmed without a shadow of a doubt. The extension of the Facebook Platform continued  
14 to accelerate the massive economy Facebook had built. By January 2012, Facebook Platform had  
15 created 232,000 jobs in the EU alone, amounting to \$15.3 billion of value to the European  
16 economy. By February 2012, 250 million people were playing games on Facebook Platform each  
17 day (that is 12 times more people than the average viewership of American Idol, the highest-rated  
18 TV show in the history of television). By April 2012, 7 of the 10 highest grossing apps in the  
19 Apple App Store were built on Facebook Platform (see [http://mashable.com/2012/05/24/facebook](http://mashable.com/2012/05/24/facebook-developer-platform-infographic/#fDCxuACag5qr)  
20 [-developer-platform-infographic/#fDCxuACag5qr](http://mashable.com/2012/05/24/facebook-developer-platform-infographic/#fDCxuACag5qr)).

21 107. In large part due to the work of Developers, including Styleform, performed in  
22 reliance on Facebook’s stated long-term commitment to Facebook Platform, Facebook exceeded  
23 1 billion users in 2012.

24 **VII. THE FTC FINDS IN 2011 AND 2012 THAT FACEBOOK HAS DESIGNED ITS**  
25 **PLATFORM IN A MANNER THAT VIOLATES PRIVACY AND ORDERS**  
26 **FACEBOOK TO FIX ITS FLAWED DESIGN**

27 108. On or about July 27, 2012, the United States Federal Trade Commission (“FTC”)  
28 entered a Decision and Order against Facebook (the “FTC Order”). The FTC Order was entered  
following a consent agreement between FTC and Facebook. The FTC Order stated that the FTC

1 had reason to believe Facebook has violated the Federal Trade Commission Act.

2 109. The FTC Order provided, among other things, that Facebook and its  
3 representatives “shall not misrepresent in any manner, expressly or by implication, the extent to  
4 which it maintains the privacy or security of covered information. . . .” The FTC Order defined  
5 “covered information” to include an individual consumer’s photos, among other things. The FTC  
6 Order also provided that Facebook and its representatives “shall not misrepresent in any manner,  
7 expressly or by implication...the extent to which [Facebook] makes or has made covered  
8 information accessible to third parties.”

9 110. The FTC Order was based on a complaint the FTC filed in 2011 against Facebook  
10 (“FTC Complaint”) that alleged Facebook Platform violated user privacy by design in at least  
11 three ways: (1) by separating the privacy settings for data a user shared with friends in apps the  
12 user downloaded (“user data”), with the privacy settings for data the user shared with friends in  
13 apps (“Apps Others Use” settings) the friends downloaded (“friend data”) (see, e.g., FTC  
14 Complaint, at 4-7); (2) by hiding the Apps Others Use settings to ensure most Facebook users  
15 were not aware that these settings were distinct from the main privacy settings (see *Id.*, at 4-9);  
16 and (3) by making the default setting for sharing data with Apps Others Use set to “on” so  
17 Facebook could funnel more data to Developers under the guise of user consent (see *Id.*, at 7-11).

18 111. At this time during 2011 and 2012 and at all times thereafter, there existed a fourth  
19 intentional design flaw unidentified by the FTC that significantly exacerbated the damage caused  
20 by the three flaws identified in the FTC Complaint: namely, Facebook deliberately failed to pass  
21 privacy settings for data transmitted via Facebook’s APIs to Developers, implicitly signaling to  
22 Developers that all friend data was public and could be treated as such. Combined with the  
23 problematic design features identified by the FTC, this turned Facebook Platform into an  
24 unregulated firehose of data transfers without any ability for users to consent to, or Developers to  
25 manage, the privacy settings of users in a responsible fashion. Setting up the Platform as a  
26 firehose that violated user privacy was in Facebook’s business interest since it enabled Facebook  
27 to attract more Developers initially to expand its user base more rapidly. Importantly, Developers  
28 had no control over this design by Facebook and many were not aware of this design until they

1 already had invested time, capital and labor in building applications on Facebook Platform.

2 112. Because a user would experience a privacy violation through a Developer app, it  
3 appeared in most cases as if the Developer was the one violating user privacy *when in fact it was*  
4 *Facebook*.

5 113. By way of example, if User A uploaded a photo to Facebook and set the photo to  
6 “only me,” only User A would be able to see the photo on Facebook.com or in the Facebook  
7 mobile app. However, because the Apps Others Use setting was hidden, not explained to users,  
8 and had the default set to “on” (issues the FTC had identified in its Complaint and Order), this  
9 meant that when User B used a Developer’s app, User B would be able to see User’s A photo that  
10 was set to “only me” if User B was friends with User A. This is because Facebook did not pass  
11 the privacy settings of a data object in the most widely used Graph API endpoints, and because  
12 Facebook had “auto-consented” User A to share this data in Apps Others Use without revealing  
13 this fact to User A. User B sees the photo and tells User A, and User A complains that the  
14 Developer is violating their privacy when in fact it was Facebook. The Developer could not have  
15 even known that User B was not supposed to see User A’s photo since Facebook falsely  
16 represented it handled such settings prior to sending the photo to the Developer.

17 114. Even after the FTC investigation, Facebook did not comply with the FTC Order to  
18 eliminate this artificial distinction between “user data” and “friend data” that allowed Facebook to  
19 funnel data in a firehose to Developers without concern for privacy restrictions. To address the  
20 FTC Order, all Facebook had to do was: (1) combine the privacy settings for apps downloaded by  
21 a user and apps downloaded by the user’s friends in the main privacy page (instead of hiding the  
22 Apps Others Use page); (2) change the default data-sharing setting from “on” to “off”; and (3)  
23 include the privacy setting of a piece of data when sending that data to developers through its  
24 APIs. There is very little technical difficulty in completing these three tasks.

25 115. Instead, Facebook shirked the FTC Order by expanding upon its intentionally  
26 flawed privacy design more urgently than ever to ensure Facebook had a valuable trading tool  
27 that would reward chosen Developers that Facebook extorted into making entirely unrelated  
28 purchases in Facebook’s new mobile advertising product, purchases which saved Facebook’s



1 business from collapsing in late 2012 and early 2013. In short, Zuckerberg weaponized the data of  
2 one-third of the planet's population in order to cover up his failure to transition Facebook's  
3 business from desktop computers to mobile ads before the market became aware that Facebook's  
4 2012 and 2013 financial projections were false, due to Facebook having not accurately  
5 represented how quickly users were transitioning their time on the Internet from desktop  
6 computers to mobile phones.

7 116. Contrary to its public representations, when Facebook restricted the Graph API in  
8 2015, it did not do so for the purpose of enhancing user privacy. Rather, Facebook had previously  
9 hid privacy controls and set the default sharing setting to "on" in violation of the FTC Order in  
10 order to funnel more data to Developers that agreed to Facebook's extortion scheme that tied  
11 Platform API access to unrelated purchases in Facebook's mobile advertising products. Facebook  
12 could have complied with the FTC Order, in 2012, by: (1) not hiding the "Apps Others Use"  
13 privacy page; (2) turning the default setting to "off"; and (3) by passing privacy information along  
14 with the data it sent through its APIs, an issue reported by Facebook employees for many years  
15 and which management willfully and deliberately decided not to fix in violation of the FTC  
16 Order. Instead, Facebook expanded the very violations at the center of the FTC's complaint  
17 leading up to the FTC Order for the purpose of improperly oligopolizing for itself and other large  
18 Developers various attractive software markets.

19 117. Thus, the true purposes of restricting Graph API, in 2015, were to distract from  
20 Facebook's previous four years of willful privacy violations, by casting itself as an unwitting  
21 victim along with users of wrongful Developers, and to provide cover for the last step in its  
22 extortion scheme: shutting down the apps of Developers who had either not agreed to its  
23 extortionary demands or who, like Styleform, had not even been given the "opportunity" to pay  
24 Facebook off for the continued access to data that they had been promised. As a result of these  
25 actions, users now have less control over this data. They are not permitted to share it with other  
26 applications they trust, but only with Facebook and a small group of Developers that pay  
27 Facebook large sums of money in unrelated advertising purchases or other financial consideration  
28 of strategic value to Facebook.

1 118. Not only does this situation violate the FTC Order, it is in violation of the General  
2 Data Protection Regulations of the European Union. And, if Facebook is not enjoined from this  
3 conduct, it will constitute a violation of a privacy law enacted in the summer of 2018 by the State  
4 of California which takes effect in 2020.

5  
6 **VIII. INSTEAD OF FIXING THE FLAWED DESIGN, ZUCKERBERG**  
7 **IMPLEMENTS AN EXTORTION SCHEME THAT WEAPONIZES USER**  
8 **DATA TRANSMITTED IN OVER 50 PUBLIC APIS, SHUTTING DOWN**  
9 **TARGETED COMPANIES UNLESS THEY MAKE MINIMUM PURCHASES**  
10 **IN FACEBOOK'S NEW MOBILE ADVERTISING PRODUCT**

11 119. Beginning in 2011, Zuckerberg held discussions and meetings with Cox, Olivan,  
12 and Lessin (in addition to other Facebook executives like Sheryl Sandberg, Daniel Rose, Andrew  
13 Bosworth, and Colin Stretch) to determine how to build a business model for mobile phones. At  
14 the time, Facebook generated no revenues from mobile phones, but people were increasingly  
15 using them instead of their desktop computers. Facebook's user engagement and advertising  
16 revenue began to plummet by the middle of 2012 as a result of this transition to mobile phones.

17 120. By the middle of 2012, Zuckerberg asked his executives to prepare multiple  
18 strategies with corresponding financial models regarding how to leverage Facebook Platform, the  
19 Developer ecosystem, and user data to transition Facebook's business model to mobile phones.  
20 Sandberg, Lessin, Rose, Cox, Olivan, Purdy and others collaborated on this strategy and  
21 modeling effort, which included: charging Developers for access to APIs with a public price  
22 (Twitter's model); taking a revenue share from Developers' sales (Apple and Google's models);  
23 and a model that would formalize the Reciprocity Policy Zuckerberg had been testing informally  
24 with certain companies since 2011.

25 121. Zuckerberg, Sandberg, Cox, Lessin and others presented these various options to  
26 the Board of Directors in August 2012, at which time it was already clear to them that the fair and  
27 neutral mobile platform models of Twitter, Apple and Google would not accelerate revenues  
28 quickly enough to save Facebook's advertising business from experiencing significant long-term  
damage. By the fall of 2012, Zuckerberg had chosen the option of implementing the Reciprocity  
Policy formally, and this decision was communicated to the top Platform executive, Vernal, who

1 was tasked with implementing the Reciprocity Policy, as the new guiding principle of Facebook  
2 Platform.

3 122. The Reciprocity Policy required the Platform team to rank companies based on  
4 their level of competitiveness with Facebook's actual or potential future products. In 2012, any  
5 large companies Facebook considered competitors that built messaging apps, photo apps, and  
6 video apps were shut down from Graph API endpoints and in certain cases prevented from  
7 purchasing advertising on Facebook under the guise of the Reciprocity Policy, notwithstanding  
8 they never violated any actual policy, law or user privacy expectation.

9 123. In late 2012, Zuckerberg directed Defendants to begin testing the formal  
10 Reciprocity Policy with a handful of large Developers outside the messaging, photo and video  
11 app market. Instead of shutting these Developers down, Defendants told them they would be shut  
12 down in the future from Graph API endpoints *unless* they shared all their data back to Facebook  
13 and/or purchased each year a specified minimum amount of Facebook's new mobile advertising  
14 product, Mobile App Install Ads. These Developers balked at the suggestion that they could be  
15 extorted to provide these demanded benefits to Facebook or be shut down from APIs that  
16 Facebook represented were available on fair, neutral and equal terms to all. Consequently,  
17 Zuckerberg directed Justin Osofsky to publicly announce the Reciprocity Policy, which occurred  
18 in a blog post on Facebook.com on January 25, 2013. Zuckerberg now had a published policy he  
19 could use as an excuse to shut down these Developers unless they purchased his Mobile App  
20 Install Ads and/or gave Facebook all their data.

21 124. However, the public Reciprocity Policy differed substantially in a number of  
22 material respects from Facebook's internal definition. The public Reciprocity Policy stated only  
23 that Developers that replicated core functionality, such as social network sites like LinkedIn or  
24 MySpace, could be shut out from Facebook Platform. It explicitly told all other Developers to  
25 "keep doing what they're doing" and made no mention of the fact that Zuckerberg had decided to  
26 privatize under threat of extortion more than 50 APIs representing the most widely used  
27 endpoints in Facebook Platform (see [https://web.archive.org/web/20130125212302/https://](https://web.archive.org/web/20130125212302/https://developers.facebook.com/blog/post/2013/01/25/clarifying-our-platform-policies/)  
28 [developers.facebook.com/blog/post/2013/01/25/clarifying-our-platform-policies/](https://web.archive.org/web/20130125212302/https://developers.facebook.com/blog/post/2013/01/25/clarifying-our-platform-policies/) and

1 <https://web.archive.org/web/20130216042126/https://developers.facebook.com/policy/>). Vernal  
2 had in fact planned to announce the API restrictions but Zuckerberg explicitly prevented him  
3 from doing so in order to induce further reliance and gain additional extortion leverage over  
4 Developers from 2013 through 2015.

5 125. From 2012 on, Defendants actively concealed material facts, made only  
6 misleading partial disclosures, and made materially false statements regarding the decisions  
7 Zuckerberg had in fact made in late 2012 concerning the Reciprocity Policy. Defendants began  
8 enforcing all aspects of Zuckerberg's decision, despite Facebook having only announced certain  
9 aspects of the decision while misleadingly withholding others. Defendants' conduct in this regard  
10 was undertaken in concert with certain large Developers who would benefit from such changes.

11 126. Zuckerberg sought the guidance and active assistance of the other individual  
12 Defendants to execute key components of the extortion scheme. Zuckerberg tasked Vernal with  
13 implementing an engineering plan to remove API access to tens of thousands of potentially  
14 competitive applications and to manage a whitelisting and blacklisting software system that  
15 automated this capability.

16 127. Zuckerberg tasked Lessin, Cox and Olivan with engaging other departments at  
17 Facebook around executing this plan to show which categories of applications were competitive  
18 with Facebook's current or future products in an effort to expand the extent to which Facebook  
19 could consider a broad range of applications to be directly competitive with Facebook and  
20 Facebook's close partners.

21 128. In the spring of 2013, Zuckerberg and Lessin tasked Archibong and others to  
22 oversee audits by Facebook employees Simon Cross, Jackie Chang and Konstantinos  
23 Papamiltiadis, among others, that identified over 40,000 Developers and ranked them based on  
24 the type of app they built and their level of competitiveness to Facebook. Defendants instructed  
25 Archibong and others to expand the definition of a competitive app to go far beyond social  
26 networks, as publicly represented, and far beyond messaging, video and photo applications,  
27 which Facebook had been shutting down in 2012. Defendants now instructed their subordinates  
28 that virtually every kind of consumer software application would be considered competitive

1 (except games and dating apps). App categories that Facebook now considered competitive and  
2 subject to the arbitrary and malicious Reciprocity Policy included sharing economy apps, lifestyle  
3 apps, birthday apps, contact management apps, utility apps, any apps where the user had a profile  
4 or a reputation score or ranking, and a wide range of others.

5 129. Based upon Defendants' preferences, Facebook employees: (1) shut down some  
6 Developers right away without notice; (2) notified other Developers that unless they agreed to be  
7 extorted and purchase a minimum amount of Mobile App Install Ads or provide other exorbitant  
8 consideration, they would in fact be shut down in the future; or (3) continued to induce still other  
9 Developers to rely on Graph API endpoints Zuckerberg had decided in late 2012 would be shut  
10 down after the extortion scheme had run its course. Many of the Developers in this third category  
11 entered into whitelist agreements with Facebook that enabled Facebook to extract more revenues  
12 from them in early and mid-2015 because they had built up even more reliance upon Facebook  
13 Platform in the intervening two years.

14 130. In all, by 2014 and 2015 over 5,000 Developers had entered into whitelist  
15 agreements with Facebook in order to benefit from the dramatic restriction of the consumer  
16 software industry that occurred when Facebook shut down all the popular Graph API endpoints  
17 on April 30, 2015, making it impossible for more than 35,000 other Developers to compete with  
18 the 5,000 who had been extorted to enter into agreements with Facebook.

19  
20 **IX. FROM 2012 ON, DEFENDANTS ENGAGE IN AN ACTIVE CONCEALMENT**  
21 **CAMPAIGN TO INDUCE FURTHER RELIANCE ON THESE 50 APIS IN**  
**ORDER TO GAIN MORE EXTORTION LEVERAGE**

22 131. From late 2012 on, Defendants required that Facebook employees actively conceal  
23 the extortion scheme even from other Facebook employees and especially from Developers and  
24 the public. Defendants made various layers of management aware of this decision on a need-to-  
25 know basis periodically from late 2012 until late 2013 and, at all times, required such employees  
26 to actively conceal and/or make only misleading partial disclosures of these material facts. At  
27 times, Defendants required secrecy upon the threat of being fired.

28 132. During this time, Facebook sent many dozens of communications directly to

1 Styleform and hundreds of public communications intended for Developers that informed  
2 Styleform of certain material changes to Facebook Platform, many of which enticed Styleform to  
3 continue to rely on Facebook Platform.

4 133. Not until April 30, 2015, at the earliest, did any such communication indicate  
5 clearly that Facebook was eliminating access to APIs critical to the functioning of Styleform's  
6 business, notwithstanding Zuckerberg had secretly made a final decision to shut these APIs down  
7 in the fall of 2012. This concealment period between the fall of 2012 and April 2015 was the  
8 period in which Zuckerberg executed the most devastating extortion scheme in the history of the  
9 software industry, a scheme which is directly responsible for Facebook's ascendance as one of the  
10 most valuable companies in the world today.

11 134. From 2012 to 2015, Facebook held numerous meetups, conferences, hackathons,  
12 and the like in which Facebook employees trained developers like Styleform to access APIs that  
13 Defendants had already decided to restrict as part of their extortion scheme. Defendants directly  
14 and by way of their subordinates encouraged and enticed Developers to invest time, money, and  
15 resources in applications Defendants knew would not function in the near future based on  
16 decisions Zuckerberg had already made.

17 135. Facebook made many of these events and training sessions available online for  
18 Developers like Styleform who could not attend in person. Styleform relied on these training  
19 sessions and other statements in deciding and continuing to maintain and invest in its technology.  
20 Facebook continued to make the same representations around the benefits of Facebook Platform  
21 that it had made since 2007 and acted maliciously, intentionally, and recklessly in continuing to  
22 make such statements. Further, from 2012 throughout 2014, Facebook issued numerous official  
23 statements and announcements that touted the success of Developers on Facebook Platform and  
24 further encouraged Developers to invest resources to build applications around APIs Zuckerberg  
25 had already decided to stop providing on fair, equal and neutral terms.

26 136. By way of example, on June 20, 2012, Cox gave a keynote speech at a conference  
27 in which he touted the success of a company that accessed friend data when stating: "And on  
28 Ticketmaster, rather than trying to remember exactly which night your friends were going to the

1 concert...people can see that right there [on Ticketmaster] and then post back that they're going,  
2 which incidentally on average creates six extra dollars of spend on Ticketmaster."  
3 (<https://www.youtube.com/watch?v=R2kkaDMAJmA>). Such statements by Cox were  
4 deliberately misleading, reckless and/or negligent in enticing Developers to build similar  
5 applications to achieve the kinds of benefits Cox attributed to Ticketmaster, since Cox was in  
6 discussions with the Defendants to restrict this data. Cox's June 20, 2012 speech disclosed that  
7 Ticketmaster dramatically increased revenues by incorporating friend data, disclosing that friend  
8 data was valuable to businesses, and yet Cox made no mention that Facebook was removing the  
9 full friends list and friend data would only apply to existing app users, making it impossible for  
10 new Developers to build applications that compete with incumbents. This misleading partial  
11 representation inducing developers to use friend data would have been materially qualified by the  
12 fact that Cox already knew that friend data would be severely restricted.

13 137. By way of a further example, on October 20, 2012, Zuckerberg gave a speech in  
14 which he stated that Facebook had "over 300 or 400 million photos shared per day now, which is  
15 pretty crazy," and implied that photo sharing was a huge monetization opportunity on Facebook.  
16 Zuckerberg omitted any mention that he had already decided to restrict this data from certain  
17 Developers. (<https://www.youtube.com/watch?v=5bJi7k-y1Lo>). Further, on January 15, 2013,  
18 Zuckerberg described searching for photos extensively and noted that Facebook had over 240  
19 billion photos, the largest online repository, conveniently omitting that access to such photos  
20 would be restricted when enticing listeners around the opportunity of Facebook's photo platform.  
21 (<https://www.youtube.com/watch?v=c-E3cfPHjeY>). Zuckerberg's October 20, 2012 speech  
22 disclosed that Facebook maintained the largest and highest quality photos database on the  
23 Internet, implying that this data was extremely valuable to developers, and yet Zuckerberg  
24 withheld that he had already decided to dramatically restrict access to this photos database and  
25 had already begun arbitrarily restricting access to this photos database. This partial representation  
26 inducing developers to build businesses using Facebook's photos database would have been  
27 materially qualified by the fact that Zuckerberg already knew (since he made the decision) that  
28 this database was going to be severely restricted.

138. By way of example, on February 28, 2013, Facebook published a training video on its official Facebook Developer YouTube Channel (<https://www.youtube.com/user/FacebookDevelopers/about>), which has over 80,000 subscribers and 9.8 million views. The training session, “Getting started with Facebook SDK for iOS,” was hosted by Facebook Employee Eddie O’Neil. O’Neil teaches Developers how to build applications that access friend data by building one with the Developers in the audience. He shows how to make a request to “get back photo albums for five friends” and then towards the end shows the finished application, stating: “Here are all my friends...As I scroll here, you see that we haven’t brought all the friend pictures in yet, but as we bring them in we’ll stick them in that cache and hold on to them...when we come back to display this it’s instantaneous,” meaning that the App can show all the friends’ photos in a single request to make it very easy for Developers to use this data in their applications (<https://www.youtube.com/watch?v=t5lFzjDCYM4>). Eddie O’Neil’s February 28, 2013 training session teaching developers how to build applications using the full friends list was a partial disclosure of the availability of the full friends list that clearly was intended to induce developers to spend time and money using the full friends list. This partial representation inducing developers to build businesses using the full friends list would have been materially qualified by the fact that O’Neil was informed in late 2012 (and therefore already knew) that this database was going to be severely restricted. O’Neil’s false statements and misleading partial disclosures were made at the direction of the Defendants. In fact, Zuckerberg had already decided to restrict access to friend data many months prior, and Mr. O’Neil was aware of this fact at the time he held this training session. As a result, Mr. O’Neil must have known at the time of this training session that he was teaching and encouraging Developers to invest capital and resources in building applications that would soon no longer function. The Defendants instructed Mr. O’Neil directly or via their subordinates to actively conceal this information from Developers. Styleform reasonably relied on many training videos like this one when making decisions to continue investment in Facebook Platform.

139. By way of example, on February 28, 2013, Facebook published another training video on its official Facebook Developer YouTube Channel. This training video was hosted by



1 Facebook employee Simon Cross from the “World Hack Moscow” event. Cross tells Developers  
2 that Facebook Platform is not about building apps within Facebook.com but rather integrating  
3 Facebook data “into your app on every platform...We’re gonna spend time using our SDKs and  
4 APIs and integrating with Facebook at a code level.” Cross then walks Developers step by step  
5 through the process of accessing photos (“Now we can go in and get their picture”).  
6 (<https://www.youtube.com/watch?v=heTPmGb6jdc>) ([https://www.facebooksappeconomy.com/](https://www.facebooksappeconomy.com/fullstory)  
7 fullstory, around 11:00). Simon Cross’ February 28, 2013 training session teaching developers  
8 how to access a user’s friends’ photos and profile pictures was a partial disclosure of the  
9 availability of a user’s friends’ photos and profile pictures that clearly was intended to induce  
10 developers to spend time and money using friends’ photos in their applications. This partial  
11 representation inducing developers to build businesses using friends’ photos would have been  
12 materially qualified by the fact that Cross knew or should have known that this database was  
13 going to be severely restricted, as his superiors decided to restrict it and began enforcing  
14 restrictions of it at least by 2012. Cross’ false statements and misleading partial disclosures were  
15 made at the direction of the Defendants. In fact, Zuckerberg had already decided to restrict access  
16 to friend APIs many months prior, and Mr. Cross was aware of this fact at the time he held this  
17 training session. As a result, Mr. Cross must have known at the time of this training session that  
18 he was teaching and encouraging Developers to invest capital and resources in building  
19 applications that would soon no longer function. The Defendants instructed Mr. Cross directly or  
20 via their subordinates to actively conceal this information from Developers. Styleform reasonably  
21 relied on this training video and others like it when making decisions to continue investment in  
22 Facebook Platform.

23 140. By way of example, on June 20, 2013, Facebook published another training video  
24 hosted by Cross on its official Facebook Developer YouTube Channel, “Getting Started with  
25 Graph API”. The video included instructions stating that its purpose was to serve as “An  
26 introduction to Facebook’s Graph API which is the primary way to programmatically integrate  
27 with Facebook – publishing Open Graph stories, reading data about the current user – their  
28 details, their likes and interests and friends.” The video documentation further states that it will

1 show Developers “how to build up deep graph queries which dive several layers deep into the  
2 Graph.” The instructions also reference Developer documentation that continued to show  
3 Developers how to access data that the Defendants had already decided to restrict at:  
4 <https://developers.facebook.com/docs/graph-api/overview>. In the video, Cross walks Developers  
5 from start to finish through the process of requesting friend data permissions, enticing Developers  
6 with statements like the following: “Graph API Explorer makes it really easy to get  
7 started...Places, Pages, Photos, Events and Newsfeed stories as well as Users are all considered  
8 objects in the graph.... We can go deeper and deeper into the graph. We can also request the  
9 picture connection on each returned User object. This would allow me to show the profile picture  
10 of each of my friends and to get all of this data in a single request” ([https://www.youtube.com/](https://www.youtube.com/watch?v=WteK95AppF4)  
11 [watch?v= WteK95AppF4](https://www.youtube.com/watch?v=WteK95AppF4)). Developers watched this video 238,665 times as of March 7, 2017.  
12 Cross’ June 20, 2013 training session teaching developers how to access a user’s friends’ photos  
13 and profile pictures was a partial disclosure of the availability of a user’s friends’ photos and  
14 profile pictures that clearly was intended to induce developers to spend time and money using  
15 friends’ photos in their applications. This partial representation inducing developers to build  
16 businesses using friends’ photos would have been materially qualified by the fact that Cross had  
17 already been informed by his superiors that the data he was inducing these developers to build  
18 businesses around was going to be severely restricted. Cross’ false statements and misleading  
19 partial disclosures were made at the direction of the Defendants. In fact, Zuckerberg had already  
20 decided to restrict access to friend data many months prior to the video’s creation in June of 2013;  
21 and Mr. Cross was aware of this fact at the time he held this training session. As a result, Mr.  
22 Cross must have known at the time of this training session that he was teaching and encouraging  
23 Developers to invest capital and resources in building applications that would soon no longer  
24 function. Mr. Cross actively concealed and omitted material facts around restrictions on this data  
25 that Facebook already decided upon around one year prior. The Defendants instructed Mr. Cross  
26 directly or via their subordinates to actively conceal this information from Developers. Styleform  
27 reasonably relied on this training video and others like it when making decisions to continue  
28 investment in Facebook Platform.

1           141. By way of example, on June 26, 2013, Facebook published a “Facebook Platform  
2 Case Study – Fab.com” on its official Facebook Developer YouTube Channel. Facebook and its  
3 partner Fab.com, an e-commerce app, touted the benefits of building on Facebook’s social  
4 operating system. A Fab.com employee stated that with Graph API they can “take everything  
5 they have in the catalog and narrowly target to a customer” to “see a product on Facebook and  
6 then share with their friends.” Facebook enticed Developers to access social data in this video but  
7 conveniently omitted all reference to the fact that the Defendants had decided many, many  
8 months ago to cease providing this data on fair and neutral terms.  
9 (<https://www.youtube.com/watch?v=fEvq5BshZLo>).

10           142. By way of another example, on September 18, 2013, Zuckerberg gave a speech  
11 during one of Facebook’s Developer Days to over 600 attendees from 17 countries. Facebook  
12 published the speech on its official Facebook Developer YouTube Channel. Zuckerberg states:  
13 “A lot of people think about Facebook Platform as a way to get distribution for apps that you’ve  
14 built. But we want to help you do even more than that. We want to make it simple to build great  
15 apps that have identity, friends and all the stuff that you want built in really easily.”  
16 (<https://www.youtube.com/watch?v=rnnjQpyCJec>). Zuckerberg’s September 18, 2013 speech in  
17 which he stated that Facebook wants to “make it simple to build great apps that have identity,  
18 friends and all the stuff that you want built in really easily” was a partial disclosure of the  
19 availability of friend data and the other valuable Graph API data that clearly was intended to  
20 induce developers to spend time and money building their products and businesses around  
21 Facebook’s friends data and other valuable Graph API data. This partial representation inducing  
22 developers to build these businesses using this data would have been materially qualified by the  
23 fact that Zuckerberg had decided more than a year prior to severely restrict the data he was  
24 inducing developers to use to build their businesses.

25           143. In fact, Zuckerberg had decided approximately a year earlier to restrict access to  
26 friend data, identity data and “all the stuff that [Developers] want[ed] built in.” Zuckerberg  
27 intentionally, recklessly and/or negligently made this statement and many others like it during this  
28 period of time to induce Developers, including Styleform, to build applications that benefited

1 Facebook with full knowledge that Developers' investments in these applications would be  
2 irreparably damaged. Zuckerberg actively concealed his decision, made statements that plainly  
3 contradicted his decision, and omitted material information regarding his decision. Styleform  
4 reasonably relied on Zuckerberg's intentional, reckless and/or negligent false statements and had  
5 no other means of identifying this material information that the Defendants had been actively  
6 concealing from Styleform.

7 144. During this time from 2012 throughout 2014, Facebook made many other policy  
8 updates and announcements to keep Developers informed of material information, including  
9 announcements on its website and in videos, such as the "Facebook Policy Update" by Facebook  
10 employee Alison Hendrix published on Facebook's official YouTube Channel on August 27,  
11 2013. (<https://www.youtube.com/watch?v=NRziLMgbbOk>).

12 145. Even as late as September 2014, Facebook continued to actively conceal material  
13 facts related to its photo sharing applications, as evinced in a video published on its official  
14 Facebook YouTube Channel, "Facebook Products for Photo apps," which makes no mention of  
15 the dramatic restrictions on friend data and photos data that the Defendants had secretly decided  
16 to implement more than two years prior (<https://www.youtube.com/watch?v=R8M4oz1uA3o>).

17  
18 **X. FROM 2012 TO 2015, FACEBOOK ENGAGES IN NUMEROUS PROJECTS**  
19 **THAT WILLFULLY VIOLATE USER PRIVACY TO ENHANCE THE**  
20 **EFFICACY OF ITS ANTI-COMPETITIVE EXTORTION SCHEME**

21 146. While Lessin, Vernal, Purdy and Zuckerberg were overseeing competitive audits  
22 of more than 40,000 apps, Olivan oversaw various related projects that illegally monitored  
23 competitive Developers through means that repeatedly violated consumer privacy.

24 147. By way of example, as disclosed in an August 2017 Wall Street Journal article  
25 ([https://www.wsj.com/articles/facebooks-onavo-gives-social-media-firm-inside-peek-at-rivals-](https://www.wsj.com/articles/facebooks-onavo-gives-social-media-firm-inside-peek-at-rivals-users-1502622003)  
26 [users-1502622003](https://www.wsj.com/articles/facebooks-onavo-gives-social-media-firm-inside-peek-at-rivals-users-1502622003)), Facebook had a project to collect certain data from consumers who had  
27 downloaded the Onavo app, a virtual private network app downloaded by approximately 30  
28 million people, which Facebook purchased in October 2013. Olivan directly oversaw this project  
to monitor the apps 30 million people opened and downloaded on their phones.

1           148. Facebook failed to disclose that it was accessing Onavo data from prior to the  
2 Onavo acquisition and further that it used Onavo data to measure what people do on their phones  
3 beyond Facebook's own suite of apps, including detailed information on things such as which  
4 apps people generally are using, how frequently, for how long, and whether more women than  
5 men use an app in a specific country. Facebook failed to disclose that it used this data for  
6 competitive intelligence of numerous apps.

7           149. Facebook's decision to purchase a large competitive application (WhatsApp) was  
8 heavily influenced by Olivan's ability to obtain this non-public information from Onavo. At all  
9 times, the employees involved in this project, including Olivan, were acting under the direction  
10 and approval of Zuckerberg. Had Facebook fully disclosed this deceptive practice publicly to  
11 users and Developers when it made public disclosures regarding its purchase of Onavo and its  
12 update to Onavo's Terms of Service, then Styleform would not have invested in or continued to  
13 invest in building its applications and business on Facebook Platform.

14           150. Further, at least by 2012 or 2013, Facebook collected various content and metadata  
15 regarding communications on Android phones without fully disclosing this to Facebook's users.  
16 Facebook used this data to give certain Facebook products and features an unfair competitive  
17 advantage over other social applications on Facebook Platform. Facebook disclosed publicly that  
18 it was reading text messages in order to authenticate users more easily (see, e.g.,  
19 <https://www.facebook.com/help/210676372433246>). This partial disclosure failed to state  
20 accurately the type of data Facebook was accessing, the timeframe over which it had accessed it,  
21 and the reasons for accessing the data of these Android users. Facebook also actively collected  
22 information it did not fully disclose from non-Facebook and non-Android users who  
23 communicated with Facebook users who owned Android phones. These consumers never  
24 consented to have Facebook collect this information. At all times, the employees involved in this  
25 project were acting under the direction and approval of Zuckerberg, Cox, Lessin and Olivan. Had  
26 Facebook fully disclosed its practices regarding collection and use of metadata and content of  
27 communications on Android phones, Styleform would not have invested in or continued to invest  
28 in building its applications and business on Facebook Platform.

1           151. Further, Facebook deliberately ignored the privacy settings of a Facebook user's  
2 friend list in order to improve a certain prominent feature in the Facebook app and website.  
3 Facebook made partial public disclosures of this practice while withholding material facts that, if  
4 disclosed, would have materially qualified Facebook's public statement (see, e.g.,  
5 <https://gizmodo.com/facebook-figured-out-my-family-secrets-and-it-wont-tel-1797696163>). At  
6 all times, the employees involved in this project were acting under the direction and approval of  
7 Zuckerberg, Cox, Lessin and Olivan. Had Facebook made a full public disclosure regarding  
8 whether it respected user privacy settings for *all* Facebook features, then Styleform would not  
9 have invested in or continued to invest in building its applications and business on Facebook  
10 Platform.

11           152. Further, Facebook implemented a project to turn on the Bluetooth setting in the  
12 background in order to locate users. Facebook made misleading partial disclosures regarding how  
13 and when it would turn on the Bluetooth feature and collect and store this data. Facebook did not  
14 fully disclose how this information would be used by Facebook. At all times, the employees  
15 involved in this project were acting under the direction and approval of Zuckerberg, Cox, Lessin  
16 and Olivan.

17           153. Further, in 2013 and 2014 Facebook deliberately implemented code to have a  
18 user's privacy setting lapse after a period of time, requiring the user to go through additional  
19 effort in order to have the user's privacy settings respected. Facebook made misleading partial  
20 disclosures around this time regarding privacy settings, but did not fully disclose that it had  
21 caused certain settings to lapse after a period of time. At all times, the employees involved in this  
22 project were acting under the direction and approval of Zuckerberg, Cox, Lessin and Olivan. Had  
23 Facebook fully disclosed its handling of this and related privacy issues, Styleform would not have  
24 invested in or continued to invest in its applications and business on Facebook Platform.

25           154. From 2007 through at least 2015, Facebook willfully, intentionally, recklessly,  
26 maliciously and negligently failed to pass privacy or age information when sending Developers  
27 Graph API data. This required Developers, including Styleform, to incur enormous costs in order  
28 to comply with user privacy settings and age restrictions. Facebook made repeated public

1 disclosures that withheld this fact. At all times, the employees involved in this project were acting  
2 under the direction and approval of Zuckerberg and Vernal. Had Facebook fully disclosed that it  
3 did not respect user privacy settings or age requirements when accessing information through  
4 third party apps, Styleform would not have invested in or continued to invest in its applications  
5 and business on Facebook Platform.

6 155. At least by 2013 and continuing at least through 2015, Facebook continued to  
7 explore and implement ways to track users' location, to track and read their texts, to access and  
8 record their microphones on their phones, to track and monitor their usage of competitive apps on  
9 their phones, and to track and monitor their calls. For example, Facebook expanded its program to  
10 access and monitor the microphone on Android phones in 2015 without securing the explicit  
11 consent of all users and while only providing misleading partial disclosures as to what  
12 information was being obtained and for what purposes it was being used (see, e.g.,  
13 <https://www.facebook.com/help/community/question/?id=974781930088> and  
14 [https://www.cnn.com/2017/10/30/facebook-denies-listening-to-user-conversations-via-](https://www.cnn.com/2017/10/30/facebook-denies-listening-to-user-conversations-via-microphones.html)  
15 [microphones.html](https://www.cnn.com/2017/10/30/facebook-denies-listening-to-user-conversations-via-microphones.html)). As another example, Facebook has not fully disclosed the manner in which it  
16 preprocesses photos on the iOS camera roll, meaning if a user has any Facebook app installed on  
17 their iPhone, then Facebook accesses and analyzes (using facial and other image recognition) the  
18 photos the user takes and/or stores on the iPhone (see, e.g., [https://www.facebook.com/help/](https://www.facebook.com/help/community/question/?id=10209909027988265)  
19 [community/question/?id=10209909027988265](https://www.facebook.com/help/community/question/?id=10209909027988265)). Facebook's misleading partial disclosures  
20 regarding iPhone photo access and what information it gleans from the photos have been  
21 woefully deficient. At all times, the employees involved in this project were acting under the  
22 direction and approval of Zuckerberg, Cox, Lessin and Olivan.

23 156. All of these willful violations of consumer privacy were undertaken in order to  
24 give Facebook an advantage over competitors, including many thousands of Developers on  
25 Facebook Platform, either by illegally monitoring their growth or by enabling Facebook's own  
26 applications to perform tasks or release features that were impossible for law-abiding Developers  
27 to replicate.  
28

1           **XI.     IN 2013 AND 2014, DEFENDANTS FABRICATE A FRAUDULENT PRO-**  
2           **PRIVACY NARRATIVE, WHICH THEY INTERNALLY NAME THE**  
3           **“SWITCHAROO PLAN,” TO COVER UP THE EXTORTION SCHEME**

4           157.   Whenever the media reported that a Developer was shut out of Facebook Platform  
5           from 2013 to 2015, Facebook’s public relations department would state the Developer violated  
6           the Reciprocity Policy and that Facebook could not comment further on specific enforcement  
7           decisions. This evasive approach provided sufficient cover long enough for the extortion scheme  
8           to transition Facebook’s advertising business to mobile phones, but it could not last forever.  
9           Zuckerberg’s scheme was wreaking havoc within Facebook, with employees who had become  
10          aware of the scheme decrying its immoral and unethical character and leaving the company in  
11          droves as a result. After all, Zuckerberg had required the Platform team, the department at  
12          Facebook that is supposed to be a fair and neutral policeman, to secretly treat as private over 50  
13          APIs that the company continued to represent as publicly and freely available for more than two  
14          years.

15          158.   Thus, Zuckerberg needed a way out of the predicament his extortion scheme had  
16          created. Remarkably, he found it in the violations of user privacy that his own firehose Platform  
17          design had created. Because the decision to shut down Developers for anti-competitive reasons  
18          coincided with reports in the media of rampant privacy violations (and because Developers were  
19          often the face of these privacy violations, since users learned of them inside the Developers’  
20          apps), Zuckerberg was able to tie these two media narratives together by arguing that the privacy  
21          violations were the result of various bad actor Developers. Remarkably, Zuckerberg’s own  
22          privacy violations gave him a pro-privacy cover to tie up the loose ends of his extortion scheme  
23          with one of the most devastating anti-competitive acts in the history of the software industry:  
24          Graph API 2.0, which was announced on April 30, 2014 and took effect one year later on April  
25          30, 2015, and which shut down more than 35,000 small-to-medium businesses under a pro-  
26          privacy justification that played no role whatsoever in Facebook’s internal decision-making.

27          159.   In mid-2013, Zuckerberg, Vernal and Facebook Director of Engineering Doug  
28          Purdy, aggressively sought to make Sukhar the front man, externally, for this pro-privacy  
narrative that was eventually peddled to the public on April 30, 2014, through the announcement



1 of “The New Facebook Login and Graph API 2.0.” (Facebook Login is a tool that lets users login  
2 to other Developers’ apps or websites using their Facebook user name and password.) This is  
3 because Sukhar was widely respected in the Developer community and would more likely be  
4 viewed as having genuine good faith intentions. Sukhar resisted being placed in this position until  
5 late 2013 because he knew the conduct was wrongful and malicious. However, in late 2013,  
6 Sukhar conceded and from that time on actively ratified, acquiesced in, and advanced key  
7 components necessary to the cover up and final execution of the extortion scheme from late 2013  
8 through 2015.

9 160. From late 2013 through early 2014, Zuckerberg, Sukhar, Vernal, Purdy and others  
10 constructed a fraudulent narrative around ‘user trust’ designed to mask the true reasons  
11 Zuckerberg was shutting down the same 50 Graph API endpoints he had begun extorting  
12 Developers with in late 2012. The core strategy behind the fraudulent narrative was to conceal the  
13 50 APIs being restricted behind the announcement of Facebook’s new Login product, which was  
14 easier to provide a pro-privacy narrative around.

15 161. The new version of the login product, starting in April 2014 required Developers  
16 to ask permission to use certain Graph API endpoints *before* they release their apps, whereas  
17 previously once a Developer had agreed to Facebook’s terms, it did not require any additional  
18 manual approval process to access certain APIs. The public rationale for this change was that it  
19 enabled Facebook to create another layer of privacy protection to ensure no bad actors accessed  
20 user data they did not need or were not supposed to access in violation of consumer privacy. In  
21 fact, the internal rationale for this change was to give Facebook the option to stymie a competitor  
22 before it grew large enough to be competitive with Facebook. Facebook did not always want to  
23 take this option, but it always wanted to have it.

24 162. Nonetheless, it was very easy to position this change to Facebook Login as pro-  
25 privacy, since Facebook could say that it wanted another layer of policing in light of the rampant  
26 privacy issues that had been reported (which, unbeknownst to the public, were in fact Facebook’s  
27 own doing caused by its shirking the FTC Order while simultaneously, and intentionally, failing  
28 to pass privacy settings in its APIs). The fact that over 50 APIs had been shut down with Graph

1 API 2.0 was not even mentioned in the public announcement or in Zuckerberg's speech at F8 on  
2 April 30, 2014.

3 163. Instead, Facebook noted in its public announcement only that some "rarely used"  
4 APIs would be shut down. This statement was false, and Defendants knew it to be false at the  
5 time they made it. In fact, the endpoints shut down on April 30, 2015 (the very same ones  
6 Zuckerberg secretly restricted in October and November 2012) were the most widely used APIs  
7 in Facebook Platform.

8 164. Many of the endpoints Developers were required to request in Login Review were  
9 never granted to any Developers. For instance, the Newsfeed APIs were subject to Login Review,  
10 and Facebook granted access to the Newsfeed APIs zero times over a period of more than a year.  
11 Thus, Login Review was simply another mechanism to enforce these anti-competitive API  
12 restrictions in a way that would cover up the extortion scheme. Facebook continues this practice  
13 and continues to harm Styleform to this day with this latest Login Review update requiring the  
14 apps to make significant changes by August 1, 2018.

15 165. Facebook hired a public relations firm in 2014 and 2015 to the tune of almost  
16 \$50,000 a month just to disseminate this fraudulent pro-privacy narrative that concealed the  
17 extortion scheme behind the new Facebook Login product. Defendants referred to the scheme as  
18 the "Switcharoo Plan" because it concealed the API restrictions behind the Login announcement  
19 while pulling the "switch" on Developers after more than two years of extorting them. Sukhar  
20 began testing the fraudulent narrative internally with Facebook employees in early 2014.  
21 Defendants then tested it with close partners shortly before the public announcement,  
22 emphasizing messaging centered on 'user trust' and 'user control'.

23 166. Zuckerberg personally decided to make user trust and control a theme at F8 and  
24 use those themes as pretenses for notifying Developers that their access to data would be  
25 removed. Zuckerberg personally decided to mask the true implications of his decision to restrict  
26 data access in his announcement and to suppress material information that made it impossible for  
27 Styleform and other Developers to understand the impact to their applications based on  
28 Zuckerberg's convoluted and contradictory announcement on April 30, 2014. Sukhar, Vernal and

1 others worked directly with Zuckerberg to suppress this material information in the  
2 announcement and to disseminate this fabricated narrative around user trust.

3 167. Zuckerberg tasked Sukhar and Vernal, among others, with propagating this  
4 fraudulent narrative internally to Facebook employees and externally to Developers and the  
5 public. Sukhar, Vernal and the other Defendants actively participated and conspired in the  
6 propagation of this fraudulent narrative.

7 168. Issues like user trust, user control, privacy and the rare use of certain Graph API  
8 data – all of which Zuckerberg and other Facebook employees stated publicly as reasons for  
9 restricting data access and breaking tens of thousands of applications – were not, in fact, the  
10 actual reasons for restricting data access at the time Zuckerberg made, and the Defendants  
11 participated in, the decision. Removing potential competitive threats and leveraging Platform to  
12 build Facebook’s mobile advertising business were the primary or exclusive reasons for closing  
13 the Open Graph. Further, decisions were not made unilaterally but in combination and concert  
14 with other large Developers and exceptions were made for certain applications that are more  
15 susceptible to violating user trust or where user trust is in fact more important than in normal  
16 applications, such as applications that require payments. These exceptions demonstrate that user  
17 trust could not have been the actual reason for Facebook’s decision to restrict Graph API data.

18 169. Zuckerberg and the Defendants directed their public relations team to feed  
19 reporters false information and in certain cases drafted reporters’ stories themselves in order to  
20 disseminate this fabricated narrative among the public and Developer community.

21 170. In his announcement at F8 on April 30, 2014, Zuckerberg continued to conceal  
22 material facts, misleadingly reveal only partial information, and deliberately mislead Developers  
23 and the public. Zuckerberg announced during his keynote: “This is gonna be a different kind of  
24 F8. In the past we’ve had F8 when we’ve had a big product announcement or new direction we  
25 were going in. This always meant a lot of different changes for your apps. Now we’re focused on  
26 building a stable mobile platform. You’re trying to build great mobile apps and businesses. And  
27 we want to bring this community together once per year to talk about all the different things were  
28 doing to support you. We’ve heard from you that you want to use Facebook Platform to do 3

1 things. Help you build, grow and monetize your apps.”

2 171. Thus, Zuckerberg reiterated the representation that Facebook had expressed to  
3 Developers, including Styleform, unequivocally for over seven years now: that Facebook is  
4 committed over the long-term to helping them build, grow and monetize their apps.

5 172. Zuckerberg continued: “As I said we’re really focused on building a stable mobile  
6 platform. And one thing you may not know, is that all of our mobile apps are built on top of the  
7 very same platform and APIs that you guys use when you’re writing Facebook and all our  
8 engineers use the same tools and read all the same documentation that you do.... It’s really  
9 important for you and for all of our teams internally that we build stable and efficient  
10 infrastructure **that you can rely on for the long term**. So this has been a really big focus for us....  
11 I want to start today by going through a few things we’re doing to make our platform even more  
12 stable and reliable for you to build, grow and monetize your apps. **You want to be able to build**  
13 **something and know that it’s gonna be able to work for a while**. So today for the first time  
14 we’re introducing a 2-year stability guarantee for all of our core API platforms...so even if we  
15 change these core APIs in the future, we’re guaranteeing that we’re going to keep supporting  
16 them as is for at least two years and maybe longer from the time we make that change. We’re still  
17 gonna experiment with new features and different things but we’re gonna mark them as beta so  
18 you know what’s gonna be part of this core stable platform. We’re also introducing API  
19 versioning. This is something we want to make sure that all the apps we wrote two years ago keep  
20 working. This is something we wanted internally as we build on this platform, so now everything  
21 is gonna be versioned so you get to decide which version of the API you get to build against.”

22 173. Accordingly, Zuckerberg made at least four representations of fact: (1) Facebook  
23 continued to provide a level playing field to Developers, including the ability to use the same  
24 tools as Facebook employees to develop their applications; (2) Facebook continued to be  
25 committed to providing developer access “that you can rely on for the long term”; (3) Facebook  
26 promised that for all of its Core API endpoints it would guarantee their stability for at least two  
27 years going forward; (4) Facebook promised that it would let Developers choose which version of  
28 the API they would like to access as it introduces API versioning (“This is something we want to

1 make sure that all the apps we wrote two years ago keep working. This is something we wanted  
2 internally as we build on this platform, so now everything is gonna be versioned so you get to  
3 decide which version of the API you get to build against.”).

4 174. Because Zuckerberg suppressed material facts in his announcement, many  
5 Developers initially applauded the 2-year stability guarantee and the ability to let Developers  
6 choose which version of the API to build against. One blogger applauded Facebook’s  
7 commitment to Developers in noting: “Facebook co-founder and CEO Mark Zuckerberg  
8 announced a two-year stability guarantee for all of the company’s core APIs and platforms. In  
9 fact, every API launched by Facebook will now be versioned, and Developers will be able to  
10 choose which version to build on.” (See [http://thenextweb.com/facebook/2014/04/30/facebook-](http://thenextweb.com/facebook/2014/04/30/facebook-announces-two-year-stability-guarantee-core-apis-sla-fix-major-bugs-within-48-hours/#gref)  
11 [announces-two-year-stability-guarantee-core-apis-sla-fix-major-bugs-within-48-hours/#gref](http://thenextweb.com/facebook/2014/04/30/facebook-announces-two-year-stability-guarantee-core-apis-sla-fix-major-bugs-within-48-hours/#gref).)  
12 TechCrunch and many other bloggers also reported on the API Guarantee, stating that Developers  
13 “will be able to build with confidence knowing that a Core API will be available for at least two  
14 years”. (See <http://techcrunch.com/2014/04/30/facebook-api-guarantee/>.)

15 175. Zuckerberg’s announcement contradicted active plans Facebook had been  
16 implementing for almost two years at Zuckerberg’s personal direction. At no time in his  
17 announcement did Zuckerberg mention that all of the Graph API endpoints would be removed,  
18 notwithstanding that he had made the decision to do so two years prior and had personally  
19 overseen efforts by dozens of Facebook employees to implement the anti-competitive data  
20 restrictions.

21 176. Zuckerberg’s statement that Developers would be able to choose which API to use,  
22 like Facebook employees, was simply false; and Zuckerberg knew this statement to be false at the  
23 time he made it. The Defendants had instructed their subordinates to implement a Core versus  
24 Extended API distinction and to version Graph API precisely to hide both the type of data they  
25 intended to restrict while also masking the true anti-competitive motivations for restricting it.

26 177. Zuckerberg’s statement of a two-year stability guarantee was also false; and  
27 Zuckerberg knew it to be false at the time he made it. Zuckerberg and the Defendants had already  
28 decided that the social data in the Social Graph would only remain available for one year, not

1 two. In other words, the 2-year stability guarantee turned out not to apply to the original Graph  
2 API and only to future APIs, a critical fact that Zuckerberg omitted in his announcement. Thus,  
3 Facebook pulled the rug out from under the Developer community and took full economic  
4 advantage of the ecosystem Developers had built, but Zuckerberg's keynote address still  
5 generated sound bites consistent with his previous representations that Facebook was maintaining  
6 a fair and level playing field for Developers. Zuckerberg was forced to make statements he knew  
7 at the time to be false precisely because it was obvious to everyone in the Developer community,  
8 especially Zuckerberg, that Facebook had for seven years been making clear and unambiguous  
9 promises to Developers that they could rely on Facebook Platform over the long term to provide a  
10 fair playing field that offers its data on equal and neutral terms.

11 178. Facebook's behavior of intentionally inducing Developers to build Facebook's  
12 business and then pulling the rug out from under them is a repeated pattern in Facebook's growth  
13 story, further demonstrating the malicious, oppressive and fraudulent nature of Facebook's  
14 conduct. The alleged conduct is not an isolated incident simply related to Graph API versioning  
15 and the thousands of developers, like Styleform, whose businesses were destroyed by this bait-  
16 and-switch tactic.

17 179. By way of example, Facebook executed another bait-and-switch tactic that caused  
18 thousands of Developers to go out of business and lose countless millions of dollars of enterprise  
19 value and capital investment. At the same time that Zuckerberg pulled the rug out from  
20 Developers using Graph API data at F8 2014, he also announced Facebook's acquisition and  
21 reliance on Parse as its new preferred tool for developers to build on Facebook Platform. Parse  
22 was a popular development platform for creating apps for Facebook, which handled much of the  
23 back-end functionality of such apps, allowing Developers to focus on features that matter to  
24 users. Zuckerberg stated in the same keynote where he announced the Graph API 2.0: "One of the  
25 things we're really excited about offering is Parse... We make it easy to focus on your app, the  
26 thing that will get you users and make you money... and Parse takes care of all the rest." A  
27 Facebook employee who followed Zuckerberg on stage went on to note that they had expanded  
28 the free tier to make it easier to grow on Parse, giving developers "unlimited requests, unlimited

1 recipients, free analytics”. Zuckerberg then finished his thoughts on Parse by saying “We’re  
2 excited, we’re aligned with your app, and we hope that it does get huge.”

3 180. As a result of this and many other similar statements and actions by Facebook,  
4 hundreds of thousands of Developers began using Parse to build applications on Facebook  
5 Platform. Parse’s platform on Facebook states: “From startups to the Fortune 500, hundreds of  
6 thousands of developers trust us.”

7 181. Then, abruptly, on January 28, 2016, Facebook announced that Parse would be  
8 shutting down: “We have a difficult announcement to make. Beginning today we’re winding  
9 down the Parse service, and Parse will be fully retired after a year-long period ending on January  
10 28, 2017. We’re proud that we’ve been able to help so many of you build great mobile apps, but  
11 we need to focus our resources elsewhere.” The statement continues: “We understand that this  
12 won’t be an easy transition... We know that many of you have come to rely on Parse, and we are  
13 striving to make this transition as straightforward as possible.”

14 182. Many developers immediately commented on the devastating effect this would  
15 have on their app, business and investment in the Facebook Platform. One developer wrote:  
16 “@ParseIt Wow... Have spent months optimizing my app with your service to launch soon, and  
17 now this... Seems sudden... #utterlydisappointed.” Another: “@ParseIt it would be nice to hear a  
18 little bit more about the need to focus your resources elsewhere.” “@ParseIt my app had 2.5M  
19 users on your platform...this is sickening.”

20 183. The incident with Parse demonstrates a continued clear pattern, on the part of  
21 Facebook, to make clear and unambiguous representations to developers, to engage in conduct  
22 that induces developers to make substantial investments of time and money (all of which helped  
23 make Facebook one of the most valuable companies in the world today), and then pull the rug out  
24 from under these Developers to reap the financial benefits for itself.

25 184. Facebook is currently undertaking another bait-and-switch scheme, this time for  
26 the Facebook Messenger Platform. This scheme was designed by Zuckerberg in 2013, and  
27 Facebook is currently in the process of baiting developers into helping make Facebook’s  
28 messaging service the most popular text messaging service in the world. Facebook made a

1 misleading partial disclosure of its intentions regarding Facebook Messenger Platform, but did  
2 not fully disclosure its intentions regarding Facebook Messenger Platform. Had Facebook  
3 disclosed this information in 2013 when Zuckerberg decided upon it, then Styleform would not  
4 have continued to invest in building their businesses or maintaining their apps because it would  
5 have signaled clearly to Styleform that Facebook Platform cannot be relied upon to build a viable  
6 business or stable product. This incident further demonstrates that the practice of baiting and  
7 switching Developers to build new lines of business for Facebook was not merely incidental or  
8 negligent, but is a key part of Zuckerberg’s standard playbook when entering new markets. In the  
9 spring of 2018, Facebook implemented a similar review process to its Facebook Messenger  
10 Platform.

11 185. Styleform continues to receive updates from Facebook regarding further  
12 restrictions on Graph API version 2. For instance, Styleform received such a notice on August 1,  
13 2018 to upgrade to Graph API v2.7, which requires submitting apps to Facebook App Review and  
14 requesting permission to access “user\_friends,” which Facebook defines as the friends of an app  
15 user who also have downloaded the App.

16 186. As a result of Defendants’ concealment of their wrongful acts, the continuing  
17 nature of those acts, and Styleform’s inability to discover them with the exercise of reasonable  
18 diligence, Styleform asserts the tolling of any applicable statute of limitations affecting the rights  
19 of action of Styleform.

20 **COUNT I: BREACH OF CONTRACT**  
21 **[Against Facebook, Inc. and Facebook Ireland Limited]**

22 187. Plaintiff re-alleges and repleads the foregoing paragraphs as though set forth fully  
23 herein.

24 188. Plaintiff and Facebook were in a business relationship under the Agreement in  
25 which Facebook promised Plaintiff “all rights necessary to use the code, APIs, data, and tools you  
26 receive from us.” (Section 9.8). Facebook defined “Platform” as “a set of APIs and services (such  
27 as content) that enable [Plaintiff] to retrieve data from Facebook or provide data to  
28 [Facebook]....By ‘content’ we mean anything...users post on Facebook.... By ‘data’ or ‘user



1 data'...we mean any data, including a user's content or information that you or third parties can  
2 retrieve from Facebook or provide to Facebook through Platform.... By 'application' we mean  
3 any application or website that uses or accesses Platform." In exchange, Plaintiff provided a host  
4 of rights to Facebook, including but not limited to a right to analyze and generate advertising  
5 revenues from Plaintiff's applications (Section 9.17), place content around Plaintiff's applications  
6 (Section 9.16) and issue press releases around Plaintiff's applications (Section 9.12). Further,  
7 Plaintiff agreed to undertake a host of obligations under the agreement around which it incurred  
8 substantial cost.

9 189. Plaintiff did all or substantially all of the significant things that the contract  
10 required it to do. Plaintiff abided by all of its contractual obligations at all times. At no time did  
11 Facebook ever contact Plaintiff to notify Plaintiff that Facebook believed Plaintiff was in  
12 potential violation of its Agreement with Facebook. Plaintiff met all of the conditions required for  
13 Facebook's performance under the agreement.

14 190. Facebook entered into identical adhesion contracts with all of the Developers on  
15 its Platform. This necessarily entailed that Facebook provide a level playing field and guarantee a  
16 minimum degree of equal access and opportunity on Facebook Platform to build a stable product  
17 and business. However, beginning at least by 2009, Facebook violated this contractual  
18 representation and promise by systematically disadvantaging Plaintiffs and other smaller  
19 Developers.

20 191. Further, by April 30, 2015, Facebook failed to provide Plaintiff with the rights  
21 necessary to use Facebook's code, APIs, data, and tools in further breach of the agreement and  
22 after Plaintiff had incurred substantial cost in meeting all of its performance obligations under the  
23 Agreement.

24 192. Further, at all times after entering into the Agreement, Facebook failed to provide  
25 Plaintiff with access to Facebook's code, APIs, data and tools on terms that were equal and  
26 neutral relative to the terms provided to all other Developers, in breach of the Agreement.

27 193. Facebook's decision to willfully, intentionally and negligently mislead Plaintiff  
28 and tens of thousands of other Developers, as well as take other actions that frustrated the ability

1 of Plaintiff and other Developers to gain the benefits of their contracts with Facebook, violated  
2 the implied covenant of good faith and fair dealing insofar as Facebook's alleged conduct unfairly  
3 interfered with Plaintiff's right to receive the benefits of its agreement with Facebook and further  
4 fraudulently induced Plaintiff to enter into the Agreement in the first place.

5 194. Facebook's decision to willfully, intentionally and negligently mislead Plaintiff  
6 and tens of thousands of other Developers and take other actions alleged herein violated  
7 Facebook's implied duty to perform with reasonable care.

8 195. Plaintiff was harmed by Facebook's conduct and Facebook's breach of its  
9 agreement with Plaintiff was a substantial factor in Plaintiff's harm. If Facebook had performed  
10 and provided Plaintiff rights necessary to access Facebook's APIs, code, data and tools, and had  
11 done so on an equal basis with respect to other Developers and to Facebook itself, Plaintiff would  
12 not have been harmed.

13 196. Any limitation of liability provided for in Facebook's agreement with Plaintiff is  
14 unenforceable in accordance with California Civil Code § 1668, which declares unlawful  
15 contracts exempting persons from the consequences of their own fraud, willful injury or violation  
16 of the law, whether willful or negligent.

17 197. Any limitation of liability provided for in Facebook's agreement with Plaintiff is  
18 unenforceable as the limitation of liability clause, as drafted by Facebook, fails to insulate  
19 Facebook from liability resulting from Facebook's own negligence or fraud.

20 198. Any limitation of liability provided for in Facebook's agreement with Plaintiff is  
21 unenforceable as Facebook and Plaintiff had dramatically unequal bargaining strength, the  
22 agreement was provided on a "take it or leave it" basis and drafted entirely by Facebook, and  
23 greatly affects and implicates the public interest as it sets forth the rights of over two billion  
24 people and tens of millions of businesses.

25 199. Plaintiff was injured as a result of Facebook's breach of the agreement in an  
26 unascertained amount in excess of \$25,000.00, to be established according to proof at trial.  
27 Accordingly, Facebook is liable to Plaintiff for damages. Plaintiff's damages as a result of the  
28 breach of contract include the loss of its investment and time spent in developing its technology

1 in reasonable reliance on its agreement with Facebook, the complete loss of its enterprise value,  
2 and its lost future profits in an aggregate amount to be ascertained at trial.

3 200. Facebook's standard adhesion contract provides that Developers and consumers  
4 outside the United States and Canada agree that their agreement is with Facebook Ireland  
5 Limited, a subsidiary owned 100% by Defendant Facebook, Inc. and controlled entirely by  
6 Facebook Inc. and Defendant Mark Zuckerberg such that Defendants maintain a complete unity  
7 of interest and ownership over Facebook Ireland Limited. Further, equity demands that a great  
8 injustice will result against Styleform if it is prevented from bringing suit against Facebook, Inc.,  
9 the entity responsible entirely for the damage to Styleform's business. In light of the malicious,  
10 wrongful, fraudulent, oppressive and punitive conduct of Defendants, they should not be  
11 permitted to hide behind the veil of a subsidiary owned and controlled entirely by them.

12 201. Accordingly, Facebook is liable to Plaintiff for damages.

13 **COUNT II: CONCEALMENT**

14 **[Against Facebook, Inc., Zuckerberg, Cox, Olivan, Lessin, Vernal and Sukhar]**

15 202. Styleform re-alleges and repleads the foregoing paragraphs as though set forth  
16 fully herein.

17 203. From 2007 to at least 2015, Defendants repeatedly made misleading partial  
18 disclosures of fact while withholding other material facts that substantially qualified and often  
19 directly contradicted the misleading partial disclosures made by Facebook. Plaintiff relied on  
20 these misleading partial disclosures of fact, had no ability to discover the material facts being  
21 withheld, and if Plaintiff had discovered the material facts being withheld, Plaintiff would not  
22 have relied upon Facebook's operating system.

23 204. These and numerous other misleading partial disclosures that deliberately shared  
24 certain facts but withheld other related material facts induced investment by developers, including  
25 Plaintiff, notwithstanding Facebook's full knowledge that these investments would be irreparably  
26 damaged. These misleading partial disclosures were designed to unjustly enrich the Defendants  
27 and were made repeatedly by Facebook and certain of its executives on many occasions from  
28 May 2007 until at least April 30, 2015, including on the dates and times alleged herein, and in

1 particular in speeches by Defendants and official statements posted on Facebook's website.

2       205.     Zuckerberg's decision to close Plaintiff's access to APIs in 2012 was material  
3 information that was not disclosed to Plaintiff. Had Facebook disclosed this material information  
4 to Plaintiff, Plaintiff would never had made or continued to make investments in building or  
5 maintaining its apps. Had Zuckerberg not intentionally misrepresented a host of material facts  
6 related to Facebook Platform and related to Zuckerberg's decision to restrict access to the most  
7 valuable information in Facebook Platform, Plaintiff would not have continued to invest in its  
8 applications and business on Facebook Platform.

9       206.     Defendants further engaged in misleading partial disclosures of fact related to the  
10 fraudulent narrative they fabricated to mask the anti-competitive scheme. In early 2014,  
11 Zuckerberg directed Sukhar and Vernal to develop a narrative that disclosed that the Graph API  
12 endpoints would be completely removed from Facebook Platform. However, this partial  
13 disclosure omitted the fact that, although the data was being removed from public view, it was not  
14 being removed from Facebook Platform. Instead of being removed, the data was being privatized.  
15 Zuckerberg deliberately concealed the fact that the Graph API was being privatized in his April  
16 30, 2014 announcement and instead made only a partial disclosure that the information was being  
17 removed. Facebook had already for over a year or more engaged numerous Developers to enter  
18 into special whitelist agreements to maintain private access to the data after it was publicly  
19 removed. The Developers who were offered special, whitelist access to the privatized Graph API  
20 endpoints were ones who either agreed to purchase hundreds of thousands of dollars in unrelated  
21 mobile ads or to provide other valuable consideration, such as intellectual property or data, to  
22 Facebook. Had Facebook disclosed at any time in 2012, 2013, or 2014 that the Graph API was  
23 being privatized in any of its numerous public disclosures regarding Graph API, of which it sent  
24 dozens to Plaintiff, then Plaintiff would have not invested in its applications and business on  
25 Facebook Platform.

26       207.     Facebook and certain of its executives had a duty to speak truthfully and to  
27 disclose material information concerning the closing of access to data arising from Facebook's  
28 Agreement with Plaintiff to be Developers on Facebook Platform and Plaintiff's Agreement to

1 abide by Facebook's policies and procedures, as alleged above. Facebook's public justification  
2 that it was implementing the anti-competitive Graph API restrictions in order to protect user  
3 privacy and control only partially disclosed Facebook's justifications. Facebook concealed the  
4 anti-competitive Graph API restrictions behind a revamp of its Facebook Login product in order  
5 to cloak these changes under a narrative about user control and privacy. The narrative that  
6 Facebook removed the Graph API endpoints to give users more control is directly belied by the  
7 fact that after the changes were implemented, Facebook users could no longer enable their friends  
8 to access their information on apps other than Facebook. The control users previously had to  
9 enable their friends to access data about them from apps other than Facebook was transferred over  
10 to Facebook. This meant that only Facebook (and not Facebook's users) could now decide what  
11 data a user's friends could see about them on other apps. Everyone was forced to use Facebook,  
12 instead of these other apps, unless all Facebook users decided to re-upload all their digital data to  
13 these other apps. Had Facebook not concealed its anti-competitive Graph API restrictions behind  
14 the Login product announcement, Plaintiff would not have continued investing in its applications  
15 and business on Facebook Platform.

16 208. Further, Facebook provided full disclosure of these changes to certain Developers  
17 throughout 2012, 2013 and 2014 but did not fully disclose the nature of these changes to Plaintiff  
18 until at least April 30, 2015. Had Facebook made full disclosure to Plaintiff at the time it made  
19 full disclosure to certain other Developers, then Plaintiff would not have invested or continued to  
20 invest in its applications and business on Facebook Platform.

21 209. Further, Facebook's public disclosure that it made these changes out of respect for  
22 user privacy is undermined by numerous Facebook projects that deliberately, willfully,  
23 intentionally, recklessly and negligently violated privacy by only making misleading partial  
24 disclosures to Developers regarding how Facebook collected, stored and transmitted user data.  
25 Beginning at least by 2012, Olivan directed a range of projects under the supervision and  
26 direction of Zuckerberg, Cox and Lessin that deliberately, intentionally, maliciously, recklessly  
27 and negligently violated user privacy in order to effectuate Facebook's anti-competitive scheme  
28 of baiting Developers to rely on Facebook Platform only to shut them down in order to restrain

1 competition in a wide range of software markets. At all times, Olivan was acting under the  
2 direction and approval of Zuckerberg, Cox and Lessin, who authorized misleading partial  
3 disclosures of Facebook's conduct that would have been undermined had Facebook made a full  
4 disclosure of material facts.

5         210. Plaintiff relied on Facebook's misleading partial disclosures that it respected user  
6 privacy, as this was a key consideration in whether it was safe to build a business on Facebook's  
7 operating system. Had Facebook made full disclosures regarding any of its deceptive projects  
8 violating user privacy, Plaintiff would not have felt comfortable continuing to invest in building  
9 its business as Facebook's privacy failures directly impact Plaintiff in two key ways: (1)  
10 Facebook's privacy failures make it extremely difficult for Plaintiff to establish trust with its own  
11 customers; (2) Facebook's unfair competitive advantage gained by information obtained in  
12 violation of user privacy makes it extremely difficult for Plaintiff to compete on a level playing  
13 field. In short, Facebook deliberately and repeatedly undermining its public commitment to user  
14 privacy caused substantial harm to Plaintiff's customers and created a risk to Plaintiff's business.  
15 Had Plaintiff been aware of the full scope of any of these projects, Plaintiff could not have  
16 proceeded in good conscience with building its applications and business on Facebook Platform.

17         211. Facebook engaged in these deceptive projects in order to obtain information that  
18 enabled Facebook to identify and restrict data access to apps on Platform that posed a competitive  
19 threat and/or to give its own features an unfair competitive advantage relative to comparable  
20 features of other apps on Facebook Platform. Facebook made various misleading partial  
21 disclosures of these projects since 2013 but in almost all cases failed to fully disclose material  
22 information necessary for Developers and users to evaluate their continued use of Facebook and  
23 its Platform. At all times, these projects were undertaken with the direction and approval of  
24 Zuckerberg, Cox, Lessin and Olivan. Had Facebook fully disclosed any of these practices, these  
25 full disclosures would have been important information to Plaintiff that would have caused it to  
26 terminate its relationships with Facebook, as building a business on top of a ticking time bomb of  
27 privacy violations would not have been reasonable.

28         212. Defendants had a duty to speak truthfully and to disclose material information

1 concerning: its handling of user data in these various projects; its 2009 internal discussions  
2 around its decisions not to provide a level competitive playing field; and its 2011 or 2012  
3 decision regarding the anti-competitive Graph API restrictions. This duty arose, *inter alia*, from  
4 Defendants' misleading partial disclosures of fact and misinformation made to Plaintiff and other  
5 Developers concerning the manner in which Facebook collects, stores and transmits data,  
6 including that Facebook maintained the data with respect for user privacy and transmitted it to  
7 developers on fair, equal and neutral terms. Defendants' duty to speak truthfully and to disclose  
8 material information concerning its handling of user data and its decision to close access to the  
9 Graph API also arose from the fact that Plaintiff and Facebook had shared confidential and highly  
10 sensitive information containing consumers' private information.

11         213. Defendants' duty to speak truthfully and to disclose material information  
12 concerning its handling of user data and its decision to close access to the Graph API also arose  
13 from the fact that Plaintiff and Facebook had entered into a commercial agreement in which  
14 Plaintiff each expended significant funds in order to build businesses using data Facebook sent to  
15 Plaintiff and gave Plaintiff all rights to use under the Agreement. This Agreement further required  
16 that Plaintiff permit Facebook to audit its highly confidential source code and intellectual  
17 property.

18         214. Defendants' duty to speak truthfully and to disclose material information  
19 concerning its handling of user data and its decision to close access to the Graph API also arose  
20 from the fact that Defendants made public representations around Facebook's management of  
21 user data that induced tens of thousands of Developers to build businesses on Facebook Platform  
22 for many years, greatly enriching Defendants all while Facebook was actively implementing  
23 plans to irreparably damage these Developers' investments.

24         215. The concealment of material facts by Defendants fraudulently induced Plaintiff to  
25 enter into its Agreement with Facebook, as Plaintiff would not have entered into the Agreement if  
26 Defendants had disclosed the material facts. At no time did Plaintiff rescind its Agreement with  
27 Facebook. Defendants benefited materially from their fraudulent, malicious and oppressive  
28 conduct, including but not limited to financial benefits tied to the growth of Facebook and the

1 dramatic reversal of its stock price as a result of restraining competition in a wide range of  
2 software markets and weaponizing Facebook Platform to force Developers to build Facebook's  
3 new mobile advertising business or risk being shut down.

4 216. Plaintiff invested considerable capital, labor, time, or effort into developing its  
5 technologies in reliance on Facebook's misrepresentations and misleading partial disclosures.

6 217. Plaintiff's reliance was reasonable because Facebook had consistently made these  
7 representations and misleading partial disclosures for seven years and tens of thousands of other  
8 Developers also relied on these representations and misleading partial disclosures that Facebook  
9 was a responsible steward of privacy and a responsible and fair referee of Facebook Platform, one  
10 of the largest software economies globally.

11 218. Plaintiff's reliance was foreseeable by Facebook as Zuckerberg has publicly stated  
12 Facebook's intent was to induce Developers to help generate revenues for Facebook, and  
13 Facebook's conduct for seven years was designed to induce such reliance.

14 219. Plaintiff was injured as a result of its reliance on Facebook's representations and  
15 material omissions, which Facebook knew to be false or acted recklessly in representing as true,  
16 in an unascertained amount in excess of \$25,000.00, to be established according to proof at trial.  
17 In taking the actions alleged herein, Defendants acted with fraud, malice and oppression, and in  
18 reckless disregard of the rights of Plaintiff.

19 220. Accordingly, Defendants are liable to Plaintiff for damages.

### 20 **COUNT III: INTENTIONAL MISREPRESENTATION**

21 **[Against Facebook, Inc., Zuckerberg, Cox, Olivan, Lessin, Vernal and Sukhar]**

22 221. Plaintiff re-alleges and repleads the foregoing paragraphs as though set forth fully  
23 herein.

24 222. Defendants clearly and unambiguously represented to Plaintiff from May 2007  
25 until at least April 30, 2015 that they were maintaining a fair and neutral operating system for  
26 Plaintiff to build software applications, including numerous representations of fact in official  
27 statements, announcements, documents and meetings as alleged herein.

28 223. These representations were made repeatedly by Defendants on many occasions



1 from May 2007 until at least April 30, 2015, including on the dates and times alleged herein, and  
2 in particular in speeches by Zuckerberg and other Facebook employees at the direction of  
3 Zuckerberg or one of the other Defendants and in official statements posted on Facebook's  
4 website.

5 224. These representations were false and were made with the intention to induce  
6 reliance upon them by Plaintiff and other Developers. Such representations were untrue, because  
7 Facebook later claimed that it had retained for itself the right to provide Graph API data on  
8 unequal and arbitrary terms, while keeping for itself and its close partners the ability to develop  
9 applications that access photos and other valuable data.

10 225. Defendants knew such representations to be false or made such representations  
11 recklessly and without regard for their truth when they made them or directed other Facebook  
12 employees to make them.

13 226. Beginning in 2012, Defendants engaged in conduct and decisions that directly  
14 contradicted these representations. Nonetheless, Defendants continued for over two years to make  
15 representations they knew to be false or made such representations recklessly and without regard  
16 for their truth. Defendants intended for Plaintiff and other Developers to rely on such  
17 representations and made such representations either directly to Plaintiff or in public fora with  
18 reasonable likelihood that such representations would be obtained by Plaintiff.

19 227. Defendants had a duty to speak truthfully and to disclose material information  
20 regarding their decision to restrict access to data in Facebook Platform arising from Facebook's  
21 Agreements with Plaintiff to be a Developer on Facebook Platform and Plaintiff's Agreements to  
22 abide by Facebook's policies and procedures, as alleged above.

23 228. Zuckerberg repeatedly made statements and directed employees to make  
24 statements from 2012 on that he knew to be false at the time he made them. Zuckerberg intended  
25 for Developers like Plaintiff to rely on such statements in order to induce them to generate  
26 revenues for Facebook and to avoid public relations and legal ramifications for Zuckerberg's  
27 malicious, oppressive, fraudulent, reckless, negligent and/or anti-competitive conduct.

28 229. Cox repeatedly made statements and directed employees to make statements from

1 2012 on that he knew to be false at the time he made them. Cox intended for Developers like  
2 Plaintiff to rely on such statements in order to induce them to generate revenues for Facebook and  
3 to avoid public relations and legal ramifications for Cox's malicious, oppressive, fraudulent,  
4 reckless, negligent and/or anti-competitive conduct.

5 230. Olivan repeatedly made statements and directed employees to make statements  
6 from 2012 on that he knew to be false at the time he made them. Olivan intended for Developers  
7 like Plaintiff to rely on such statements in order to induce them to generate revenues for Facebook  
8 and to avoid public relations and legal ramifications for Olivan's malicious, oppressive,  
9 fraudulent, reckless, negligent and/or anti-competitive conduct.

10 231. Lessin repeatedly made statements from 2012 on that he knew to be false at the  
11 time he made them. Lessin intended for Developers like Plaintiff to rely on such statements in  
12 order to induce them to generate revenues for Facebook and to avoid public relations and or legal  
13 ramifications for Lessin's malicious, oppressive, fraudulent, reckless, negligent and/or anti-  
14 competitive conduct.

15 232. Vernal repeatedly made statements and directed employees to make statements  
16 from 2012 on that he knew to be false at the time he made them. Vernal intended for Developers  
17 like Plaintiff to rely on such statements in order to induce them to generate revenues for Facebook  
18 and to avoid public relations and legal ramifications for Vernal's malicious, oppressive,  
19 fraudulent, reckless, negligent and/or anti-competitive conduct.

20 233. Sukhar repeatedly made statements and directed employees to make statements  
21 from 2012 on that he knew to be false at the time he made them. Sukhar intended for Developers  
22 like Plaintiff to rely on such statements in order to induce them to generate revenues for Facebook  
23 and to avoid public relations and legal ramifications for Sukhar's malicious, oppressive,  
24 fraudulent, reckless, negligent and/or anti-competitive conduct.

25 234. Facebook's duty to speak truthfully and to disclose material information  
26 concerning the closing of access to data also arose from misleading partial disclosures of fact and  
27 misinformation made to Plaintiff and other Developers concerning the allegedly fair and equal  
28 access to data.

1           235. Further, upon Zuckerberg's personal instruction, Defendants engaged in a scheme  
2 from 2012 until 2015 to intentionally misrepresent critical facts about Facebook Platform and  
3 about Zuckerberg's decision to restrict data access on Facebook Platform. If Defendants had not  
4 engaged in this scheme to require dozens of employees to intentionally misrepresent material  
5 facts, Plaintiff would never have made an investment in the App, and would not have continued  
6 to invest in its applications and business on Facebook Platform.

7           236. Even when Zuckerberg announced the purported closing of the data on April 30,  
8 2014, Zuckerberg still intentionally misrepresented his decision to restrict data access for widely  
9 used data in Graph API and only partially revealed misleading material facts while suppressing  
10 others, resulting in further investment from Plaintiff and many other Developers. The Defendants  
11 actively participated, ratified, served as agents and communicated key components of this  
12 intentional misrepresentation in Zuckerberg's announcement.

13           237. Defendants made these representations in order to induce Developers to build  
14 applications that generate revenue for Facebook and to avoid public relations and legal  
15 ramifications for their fraudulent, malicious, oppressive and anti-competitive conduct. The  
16 Defendants participated, ratified and/or served as agents of Facebook in connection with their  
17 material omissions and their actions to conceal material facts from Plaintiff and tens of thousands  
18 of other Developers.

19           238. Defendants benefited materially from their fraudulent, malicious and oppressive  
20 conduct, including but not limited to financial benefits tied to the growth of Facebook and the  
21 dramatic reversal of its stock price as a result of oligopolizing for Facebook and its close partners  
22 the various markets associated with Facebook Platform.

23           239. Plaintiff invested considerable capital, labor, time or effort into developing its  
24 technologies in reliance on Facebook's representations.

25           240. Plaintiff's reliance was reasonable because Facebook had consistently made public  
26 representations as to equal access and a fair playing field in Facebook Platform for seven years  
27 and tens of thousands of other Developers also relied on these representations.

28           241. Plaintiff's reliance was foreseeable by Defendants, as Zuckerberg has publicly

1 stated his intent in making such statements was to entice Developers to help generate revenues for  
2 Facebook. Further, Facebook's conduct for seven years was designed to induce and reinforce  
3 such reliance.

4 242. Plaintiff was injured as a result of its reliance on Facebook's representations and  
5 material omissions, which Facebook knew to be false or acted recklessly in representing as true,  
6 in an unascertained amount in excess of \$25,000.00, to be established according to proof at trial.  
7 In taking the actions alleged herein, Defendants acted with fraud, malice and oppression, and in  
8 reckless disregard of Plaintiff's rights.

9 243. Accordingly, Defendants are liable to Plaintiff for damages.

10 **COUNT IV: NEGLIGENT MISREPRESENTATION**  
11 **[Against Facebook, Inc., Zuckerberg, Cox, Olivan, Lessin, Vernal and Sukhar]**

12 244. Plaintiff re-alleges and repleads the foregoing paragraphs as though set forth fully  
13 herein.

14 245. Defendants made numerous representations of fact alleged in detail herein. These  
15 representations were untrue.

16 246. Regardless of their actual belief, Defendants must have made those representations  
17 without any reasonable ground for believing the representations to be true.

18 247. Defendants conveyed the representations in a commercial setting for a business  
19 purpose, namely inducing Developers to develop applications for Facebook.

20 248. Defendants made those representations with the intent to induce Developers,  
21 including Plaintiff, to develop applications, including the App, that used Graph API data, thereby  
22 adding features to Facebook, enhancing Facebook's functionality and user experience, and  
23 generating more revenue for Facebook.

24 249. Zuckerberg repeatedly made statements and directed employees to make  
25 statements from 2012 on without any reasonable grounds for believing the representations to be  
26 true. Zuckerberg intended for Developers like Plaintiff to rely on such statements in order to  
27 induce them to generate revenues for Facebook and to avoid public relations and or legal  
28 ramifications for Zuckerberg's malicious, oppressive, fraudulent, reckless, negligent and/or anti-

1 competitive conduct.

2 250. Cox repeatedly made statements and directed employees to make statements from  
3 2012 on without any reasonable grounds for believing the representations to be true. Cox intended  
4 for Developers like Plaintiff to rely on such statements in order to induce them to generate  
5 revenues for Facebook and to avoid public relations and or legal ramifications for Cox's  
6 malicious, oppressive, fraudulent, reckless, negligent and/or anti-competitive conduct.

7 251. Olivan repeatedly made statements and directed employees to make statements  
8 from 2012 on without any reasonable grounds for believing the representations to be true. Olivan  
9 intended for Developers like Plaintiff to rely on such statements in order to induce them to  
10 generate revenues for Facebook and to avoid public relations and or legal ramifications for  
11 Olivan's malicious, oppressive, fraudulent, reckless, negligent and/or anti-competitive conduct.

12 252. Lessin repeatedly made statements and directed employees to make statements  
13 from 2012 on without any reasonable grounds for believing the representations to be true. Lessin  
14 intended for Developers like Plaintiff to rely on such statements in order to induce them to  
15 generate revenues for Facebook and to avoid public relations and or legal ramifications for  
16 Lessin's malicious, oppressive, fraudulent, reckless, negligent and/or anti-competitive conduct.

17 253. Vernal repeatedly made statements and directed employees to make statements  
18 from 2012 on without any reasonable grounds for believing the representations to be true. Vernal  
19 intended for Developers like Plaintiff to rely on such statements in order to induce them to  
20 generate revenues for Facebook and to avoid public relations and or legal ramifications for  
21 Vernal's malicious, oppressive, fraudulent, reckless, negligent and/or anti-competitive conduct.

22 254. Sukhar repeatedly made statements and directed employees to make statements  
23 from 2012 on without any reasonable grounds for believing the representations to be true. Sukhar  
24 intended for Developers like Plaintiff to rely on such statements in order to induce them to  
25 generate revenues for Facebook and to avoid public relations and or legal ramifications for  
26 Sukhar's malicious, oppressive, fraudulent, reckless, negligent and/or anti-competitive conduct.

27 255. Plaintiff was not aware that Defendants' representations were false, and Plaintiff  
28 developed their technologies in reliance on the truth of Facebook's representations.

1           256. Plaintiff's reliance on the truth of Defendants' representations was justified  
2 because Defendants had consistently made these representations for seven years without ever  
3 stating that it could prevent Developers from building the specific kinds of applications Facebook  
4 was enticing them to build all along.

5           257. Plaintiff was injured as a result of its reliance on Defendants' representations, in an  
6 unascertained amount in excess of \$25,000.00, to be established according to proof at trial.

7           258. In taking the actions alleged herein, Defendants acted with fraud, malice and  
8 oppression, and in reckless disregard of the rights of Plaintiff.

9           259. Accordingly, Defendants are liable to Plaintiff for damages.

10  
11           **COUNT V: INTENTIONAL INTERFERENCE WITH CONTRACT**  
12           **[Against Facebook, Inc., Zuckerberg, Cox, Olivan, Lessin, Vernal and Sukhar]**

13           260. Plaintiff re-alleges and repleads the foregoing paragraphs as though set forth fully  
14 herein.

15           261. Plaintiff had entered into license agreements, contracts and/or subscriptions with  
16 its customers.

17           262. Defendants knew of these contracts, license agreements and/or subscriptions.

18           263. Defendants intentionally interfered with and disrupted these contracts by managing  
19 their Platform as a bait and switch extortion scheme from 2007 through at least 2015, despite  
20 knowing that interference with these contracts would be certain or substantially certain to occur.

21           264. Defendants further intentionally interfered with and disrupted Plaintiff's contracts  
22 with end users when it terminated Plaintiff's access to the Graph API, despite knowing that  
23 interference with these contracts would be certain or substantially certain to occur as a result of  
24 Defendants' acts in ending Plaintiff's access.

25           265. Plaintiff's contracts with users and customers were thereby disrupted by  
26 Defendants.

27           266. As a result, Plaintiff has suffered and will suffer damage in an unascertained  
28 amount in excess of \$25,000.00 to be established according to proof at trial.

1           267. In taking the actions alleged herein, Defendants acted with fraud, malice and  
2 oppression, and in reckless disregard of the rights of Plaintiff.

3           268. Accordingly, Defendants are liable to Plaintiff for damages.

4  
5           **COUNT VI: INTENTIONAL INTERFERENCE WITH PROSPECTIVE ECONOMIC**  
6           **RELATIONS**

7           **[Against Facebook, Inc., Zuckerberg, Cox, Olivan, Lessin, Vernal and Sukhar]**

8           269. Plaintiff re-alleges and repleads the foregoing paragraphs as though set forth fully  
9 herein.

10          270. Defendants interfered in the prospective economic relations between Plaintiff and  
11 its Apps' users and prospective users in the manner alleged herein.

12          271. Because 250,000 Pink Ribbon App users, 17,000 Climate Smart App users, and  
13 hundreds of New Year Resolutions App users had entered into contract with Styleform, all of the  
14 Facebook friends and connections of these approximately 267,000 customers were prospective  
15 customers of Styleform who could enter into contract with Styleform with a single click on a link  
16 sent by their friends. Styleform had a reasonable expectation of prospective economic advantage  
17 with the Facebook friends and connections of these 267,000 end users. Further, Styleform had  
18 economic relationships with the 267,000 end users that could have resulted in prospective  
19 economic advantage above and beyond any benefits that had already been reduced to contract.

20          272. Beginning by at least 2009 and accelerating in 2011, Facebook began experiencing  
21 substantial difficulty transitioning its service from desktop computers to mobile devices. The  
22 executive team was extremely concerned around the impact this transition would have on  
23 Facebook's revenues, particularly in light of the fact that Facebook was planning an initial public  
24 offering (IPO) of its shares around this time. In discussions in 2011 and 2012, Zuckerberg and  
25 other members of Facebook's management team, including Lessin, Olivan, Cox, Sandberg, and  
26 Bosworth, decided to remove any APIs in Facebook Platform that permitted mobile apps to  
27 obtain organic growth, including the Graph API endpoints. Organic growth enabled an app to  
28 acquire new users without having to purchase advertising. Facebook built features like the  
newsfeed APIs and full friends list in order to drive organic growth for Developers and

1 represented for many years that organic growth was a key reason a developer should build its  
2 business on Facebook Platform. Organic growth was primarily achieved through the newsfeed  
3 APIs and full friends list, because these APIs let potential new users of an app learn about and  
4 download the app from existing users without the app needing to purchase advertisements to  
5 reach that new user. Zuckerberg decided to implement the anti-competitive scheme in 2012 not  
6 only to restrain competition to make way for new Facebook products but also to hold hostage the  
7 tens of thousands of Developers that relied on Facebook Platform for organic growth. By  
8 eliminating the full friend list, friend permissions and newsfeed APIs, Zuckerberg placed tens of  
9 thousands of Developers in an impossible position: either spend hundreds of thousands of dollars  
10 each year buying ads with Facebook's new mobile advertising product or shut down the product  
11 or business. For Developers who could afford it, the choice was clear: give in to Zuckerberg's  
12 demands, pony up the cash, and stay in business.

13         273. Based in significant part upon the representations Defendants made from 2007  
14 until 2014 that Facebook Platform was the most effective organic growth and distribution channel  
15 for applications, Plaintiff decided to build its business on Facebook Platform because Facebook  
16 represented that any friends of Plaintiff's users were qualified prospective customers who could  
17 enter into license agreements with Plaintiff with a single click or tap on a notification from a  
18 friend or a post in their newsfeed. There were on the order of millions of friends of the 267,000  
19 end users Styleform had acquired across its three Apps. Therefore, Plaintiff had an objective and  
20 reasonable expectation of prospective economic relations with these prospective customers and  
21 Defendants interfered with Plaintiff's prospective economic advantage with these customers  
22 whenever they decided to hamper or shut down organic growth and distribution channels, which  
23 occurred from 2009 through 2015.

24         274. The conduct of Defendants was wrongful on a number of independent grounds,  
25 including violation of California's Unfair Competition law, the FTC Order, California's False  
26 Advertising Law, California's Cartwright Act, and the common law causes of action for  
27 intentional misrepresentation, negligent misrepresentation, and concealment.

28         275. Defendants knew of Plaintiff's relationships with the users or prospective users of



1 its Apps, and knew or should have known of the marketing and advertising activities described  
2 herein.

3 276. Defendants intentionally disrupted these relationships from 2009 through 2015.  
4 Particularly by 2012, Plaintiff's business was operating entirely on borrowed time with no  
5 possibility of obtaining economic advantage with prospective customers and yet Plaintiff had no  
6 way of knowing this was the case until at least 2015.

7 277. Further, Defendants intentionally disrupted these relationships when they decided  
8 from 2007 through at least 2015 to fail to provide proper privacy controls for Graph API  
9 endpoints.

10 278. Defendants intentionally disrupted Plaintiff's relationships with users and  
11 prospective users when they ended access to Graph API, despite knowing that interference with  
12 these relationships would be certain or substantially certain to occur as a result of Facebook's act  
13 in ending Plaintiff's access. Facebook employees regularly circulated spreadsheets to Facebook's  
14 top executives, including Zuckerberg, identifying Developers that would experience a major  
15 business disruption as a result of the changes. Employees passionately urged Facebook executives  
16 not to disrupt these businesses, and upon learning that Zuckerberg was not going to change his  
17 mind, quit the company or the Platform team in protest.

18 279. Defendants further intentionally interfered with and disrupted Plaintiff's  
19 relationships with its users and prospective users when it did terminate Plaintiff's access on April  
20 30, 2015, despite knowing that interference with these relationships would be certain or  
21 substantially certain to occur as a result of Facebook's conduct in ending Plaintiff's access.

22 280. Plaintiff's relationships with its users and prospective users was thereby disrupted,  
23 and will be further disrupted.

24 281. As a result, Plaintiff suffered damage in an unascertained amount in excess of  
25 \$25,000.00 to be established according to proof at trial.

26 282. In taking the actions alleged herein, Defendants acted with fraud, malice and  
27 oppression, and in reckless disregard of the rights of Plaintiff.

28 283. Accordingly, Defendants are liable to Plaintiff for damages.

1  
2 **COUNT VII: NEGLIGENT INTERFERENCE WITH PROSPECTIVE ECONOMIC**  
3 **RELATIONS**

4 **[Against Facebook, Inc., Zuckerberg, Cox, Olivan, Lessin, Vernal and Sukhar]**

5 284. Plaintiff re-alleges and repleads the foregoing paragraphs as though set forth fully  
6 herein.

7 285. Defendants interfered in the prospective economic relations between Plaintiff and  
8 its Apps' users and prospective users in the manner alleged herein.

9 286. Defendants knew of Plaintiff's relationships with the users or prospective users of  
10 its Apps, and knew or should have known of the marketing and advertising activities described  
11 herein.

12 287. Defendants negligently disrupted Plaintiff's relationships with users and  
13 prospective users when they ended access to Graph API. Facebook employees regularly  
14 circulated spreadsheets to Facebook's top executives, including Zuckerberg, identifying  
15 Developers that would experience a major business disruption as a result of the changes.  
16 Employees passionately urged Facebook executives not to disrupt these businesses, and upon  
17 learning that Zuckerberg was not going to change his mind, quit the company or the Platform  
18 team in protest.

19 288. Defendants further negligently interfered with and disrupted Plaintiff's  
20 relationships with its users and prospective users when it did terminate Plaintiff's access on April  
21 30, 2015, despite knowing that interference with these relationships would be certain or  
22 substantially certain to occur as a result of Facebook's conduct in ending Plaintiff's access.

23 289. Plaintiff's relationships with its users and prospective users was thereby disrupted,  
24 and will be further disrupted.

25 290. As a result, Plaintiff suffered damage in an unascertained amount in excess of  
26 \$25,000.00 to be established according to proof at trial.

27 291. In taking the actions alleged herein, Defendants acted with fraud, malice and  
28 oppression, and in reckless disregard of the rights of Plaintiff.

292. Accordingly, Defendants are liable to Plaintiff for damages.

**COUNT VIII: VIOLATION OF BUSINESS AND PROFESSIONS CODE §§ 17500  
[Against Facebook, Inc., Zuckerberg, Cox, Olivan, Lessin, Vernal and Sukhar]**

293. Plaintiff re-alleges and repleads the foregoing paragraphs as though set forth fully herein.

294. Defendants clearly and unambiguously represented to Plaintiff from May 2007 until at least April 30, 2015 that they were maintaining a fair and neutral operating system for Plaintiff to build software applications, including, but not limited to, the specific representations in official statements, announcements, documents and meetings alleged herein, all of which Plaintiff believed and relied upon, along with thousands of other Developers.

295. Facebook further represented to all users and Developers that Facebook would at all time respect user privacy and pass privacy settings to Developers to ensure Developers could also respect user privacy settings. Facebook's representations to users that their data was secure in its Platform was false and Defendants knew these representations to be false. For instance, from 2007 through 2015 Facebook repeatedly and by design failed to pass a user's privacy settings on a piece of data via its Platform APIs. Moreover, Facebook deliberately took measures to architect its Platform in a manner that would blame Developers for Facebook's own failures and employees who passionately argued against this practice were silenced by Facebook executives.

296. These representations to users and Developers were made repeatedly by Facebook on many occasions from May 2007 until at least April 30, 2015, including on the dates and times alleged herein, and in particular in speeches by Zuckerberg and other Facebook employees at the direction of Zuckerberg or one of the Defendants and in official statements posted on Facebook's website. These representations were false. Defendants knew such representations to be false or made such representations recklessly and without regard for their truth when they made them or directed other Facebook employees to make them. The representations were made to deceive Plaintiff and any other person who might encounter the representations.

297. These representations were made to induce Developers to enter into contract with Facebook and to invest considerable time, capital and labor in building applications on Facebook

1 Platform. Plaintiff invested a substantial sum in the mid six figures in capital and labor building  
2 applications on Facebook Platform in reliance on these false representations.

3 298. These representations were further made to induce Developers to purchase  
4 advertising products from Facebook, which Styleform purchased at various times, in reliance on  
5 these false representations.

6 299. As a result, Defendants were unjustly enriched at the expense of Plaintiff in an  
7 unascertained amount in excess of \$25,000.00 to be established according to proof at trial.

8 300. In taking the actions alleged herein, Defendants acted with fraud, malice and  
9 oppression, and in reckless disregard of the rights of Plaintiff.

10 301. Accordingly, Defendants are liable to Plaintiff for restitution and/or disgorgement,  
11 as well as injunctive relief.

12  
13 **COUNT IX: VIOLATION OF BUSINESS AND PROFESSIONS CODE §§ 16720**  
14 **[Against Facebook, Inc., Zuckerberg, Cox, Olivan, Lessin, Vernal and Sukhar]**

15 302. Plaintiff re-alleges and repleads the foregoing paragraphs as though set forth fully  
16 herein.

17 303. From 2007 through at least 2015, Defendants repeatedly represented that its  
18 Platform and its various APIs would be offered on neutral, equal and level terms with respect to  
19 all Developers, including with respect to Facebook. Defendants further represented that access to  
20 APIs and other Platform products would not depend in any way on a company's willingness or  
21 agreement to purchase a certain amount of advertising products from Facebook. Thus, for seven  
22 years, Defendants represented Platform APIs and advertising products as entirely separate and  
23 distinct products that were offered independently to Developers.

24 304. At least by 2012, Zuckerberg implemented an extortion scheme whereby he  
25 required Defendants to provide the Platform API products to certain Developers *only* if the  
26 Developers also purchased Facebook's new mobile advertising product. Further, Defendants  
27 coerced Developers to purchase Facebook's new mobile advertising product upon threat of being  
28 shut off from the Platform API products. At all times while Defendants coerced other Developers

1 under this tying scheme, they continued to falsely represent to the public, government regulators  
2 and other prospective buyers that these two product categories were entirely separate and distinct.  
3 It was the understanding of Facebook employees who were made aware of this extortion scheme,  
4 that Zuckerberg had decided to misrepresent the relationship between these products in order to  
5 induce further reliance that would give Facebook more leverage to extort these Developers to  
6 participate in the tying scheme.

7         305. Defendants have sufficient economic power in the market for social platforms and  
8 operating systems and the various APIs offered therein because for seven years they represented  
9 that the Platform APIs would not be tied to advertising purchases and, as a result, were able to  
10 build a dominant position in the market for social software platforms, including being the  
11 exclusive and sole provider of the Facebook Platform APIs, such that tens of millions of  
12 businesses rely on Facebook Platform and an overwhelming majority of all mobile and web  
13 applications globally are connected to Facebook Platform. This immense economic power was  
14 sufficient to coerce a significant number of Developers into purchasing mobile ads in order to  
15 prevent their products from breaking and their businesses from being shut down. At various times  
16 Facebook provided more than 5,000 Developers with special access to Platform APIs that was not  
17 provided to other Developers because of their willingness to purchase these advertising products  
18 Facebook represented as separate and distinct.

19         306. The tying arrangement has immensely restrained competition across a wide range  
20 of software markets, including messaging apps, professional services apps, utility apps, gifting  
21 apps, sharing economy apps, utility apps, file repository apps, payment apps, birthday reminder  
22 apps, photo and video apps, calendar apps, lifestyle apps, health and fitness apps, and now dating  
23 apps. At least 35,000 apps in operation prior to the tying scheme no longer exist and are therefore  
24 unable to purchase any advertising from Facebook, thereby restricting the overall quantity of  
25 participants and purchases in the advertising market. This has in fact immensely benefited  
26 Facebook's business, because, although the total number of potential customers for its advertising  
27 service has decreased, Facebook has been able to extract punitive rents from those Developers  
28 who participated in the tying scheme as a result of the fact that these Developers were not only

1 purchasing advertising, but also purchasing the ability to gain an unfair competitive advantage  
2 against other market participants. Thus, restricting the market for Facebook's mobile advertising  
3 products has actually increased Facebook's profits in that market.

4 307. Defendants represented Facebook's Platform APIs and its advertising products as  
5 separate and distinct in order to induce Developers to enter into contract with Facebook and to  
6 invest considerable time, capital and labor in building applications on Facebook Platform.  
7 Plaintiff invested a substantial sum in the mid six figures in capital and labor building  
8 applications on Facebook Platform in reliance on these false representations. These  
9 representations were further made to induce Developers to purchase advertising products from  
10 Facebook, which Styleform purchased at various times, in reliance on these false representations.

11 308. Further, Styleform engaged in other marketing activities in preparation for its  
12 public launches, such as purchasing advertising to test various ad campaigns in Facebook's new  
13 mobile advertising product. As a result of Facebook's anti-competitive scheme, Plaintiff was  
14 prevented from participating in Facebook's advertising market since the apps could not properly  
15 function. Tens of thousands of other Developers were prevented from participating in Facebook's  
16 new mobile advertising market as a result of Facebook's anti-competitive scheme.

17 309. As a result, Plaintiff suffered damage in an unascertained amount in excess of  
18 \$25,000.00 to be established according to proof at trial.

19 310. In taking the actions alleged herein, Defendants acted with fraud, malice and  
20 oppression, and in reckless disregard of the rights of Plaintiff.

21 311. Accordingly, Defendants are liable to Plaintiff for damages.

22 **COUNT X: VIOLATION OF BUSINESS AND PROFESSIONS CODE §§ 17200**

23 **[Against Facebook, Inc., Zuckerberg, Cox, Olivan, Lessin, Vernal and Sukhar]**

24 312. Plaintiff re-alleges and repleads the foregoing paragraphs as though set forth fully  
25 herein.

26 313. Defendants' representations and conduct were designed to, and did, entice Plaintiff  
27 and other Developers to create applications for Facebook with representations of, among other  
28 things, a level playing field, fair competition, and a chance to build a business. Facebook decided

1 to open Graph API and certain types of data, and not others, precisely to induce Developers to  
2 build certain types of applications, including Styleform’s philanthropy-based applications  
3 regarding cancer awareness and climate change. Defendants represented to Developers that their  
4 applications would be treated on a level playing field with any applications Facebook decided to  
5 launch in the future. Defendants also represented to developers that Facebook was committed  
6 over the long term to enable Developers to build businesses using their Facebook applications.

7 314. Defendants caused substantial harm to Plaintiff and other Developers when it then  
8 decided to leverage its Platform as a weapon in various bait and switch schemes from 2009 to  
9 2011, 2012 to 2015 and again in 2018 in response to the Cambridge Analytica data crisis.  
10 Defendants baited, extorted and then eliminated many Developers under a privacy narrative that  
11 Facebook executives knew to be false when it was, in fact, Facebook itself who made it extremely  
12 difficult for Developers to adhere to user privacy settings by willfully failing to pass privacy  
13 settings to Developers in its APIs.

14 315. The efforts by Plaintiff and other Developers helped to drive user adoption of  
15 Facebook by enhancing the user experience, increase users’ time on Facebook, and create  
16 additional advertising for Facebook, thus creating substantial additional revenue and user growth  
17 for Facebook’s benefit.

18 316. Defendants’ decision to restrict access to Graph API data does not enhance user  
19 privacy because and control because the privacy issues with Facebook Platform do not stem from  
20 the ability of users to control their data and take their data to other applications, but rather from  
21 Facebook’s own decision as early as 2007 and continuing through 2018 to fabricate the consent of  
22 these users by (1) hiding the privacy settings for what data their friends can access about them in  
23 apps other than Facebook; (2) setting the sharing default to “on”; and (3) failing to pass privacy  
24 settings when transmitting data over its APIs.

25 317. By restricting access to Graph API, Facebook has oligopolized for itself and other  
26 large Developers that entered into special agreements with Facebook the ability to create  
27 applications competitive with those developed by Plaintiff and thousands of other Developers,  
28 which harms consumers, Developers, and competition with no countervailing benefit.

1           318. The harm to Plaintiff and other Developers by Defendants' representations and  
2 conduct outweighs the purported reasons, justifications, or motives for the representations and  
3 conduct by Facebook. Facebook's conduct was fraudulent and intended to deceive members of  
4 the public, including consumers, government regulators and Developers. Defendants' conduct  
5 alleged herein constitutes violations of common law tort and fraud, statutory fraud, the FTC  
6 Order, California's False Advertising Law, and California's Cartwright Act.

7           319. Plaintiff could not have reasonably avoided injury because Defendants notified  
8 Plaintiff it would be restricting data access only after Plaintiff had made considerable investment  
9 and Facebook had approved its Apps.

10          320. Defendants' decision to restrict Graph API data and provide it on unequal terms  
11 was also unlawful.

12          321. Defendants' decision to induce Plaintiff to invest in building its Apps on top of  
13 Graph API when Facebook was restricting access to Graph API and extorting Developers due to  
14 their reliance on Graph API was also unlawful.

15          322. Defendants' actions thus constitute business practices in violation of California's  
16 Unfair Competition Act, Bus. & Prof. Code § 17200.

17          323. As a result of their acts and omissions that constituted violations of California's  
18 Unfair Competition Act, Bus. & Prof. Code § 17200, Defendants have been unjustly enriched.

19          324. In taking the actions alleged herein, Facebook acted with fraud, malice and  
20 oppression, and in reckless disregard of the rights of Plaintiff.

21          325. Plaintiff suffered substantial injury as a result of Facebook's actions, including the  
22 loss of investment of time and money in developing its Apps, the loss of enterprise value and the  
23 loss of future profits, in amounts to be determined at trial.

24          326. As a further proximate result of the acts and conduct of Facebook herein alleged,  
25 Plaintiff has found it necessary to engage attorneys, and incur attorney's fees, and will continue to  
26 incur attorney's fees, in an unascertained amount to be established according to proof following  
27 the conclusion of trial.  
28



327. Thus, Defendants were unjustly enriched at the expense of Plaintiff in an unascertained amount in excess of \$25,000.00 to be established according to proof at trial.

328. Accordingly, Defendants are liable to Plaintiff for restitution and/or disgorgement, as well as injunctive relief.

## JURY TRIAL DEMAND

Plaintiff demands a trial by jury on all claims so triable.

## PRAYER FOR RELIEF

WHEREFORE, Plaintiff asks this Court to enter judgment against Defendants Facebook, Inc., Facebook Ireland Ltd., Mark Zuckerberg, Christopher Cox, Javier Olivan, Samuel Lessin, Michael Vernal and Ilya Sukhar as follows:

A. A judgment or order declaring the conduct of Defendants Facebook, Inc. and Facebook Ireland Ltd., as alleged, constitutes breach of contract;

B. A judgment or order declaring that the conduct of Defendants Facebook, Inc., Zuckerberg, Cox, Olivan, Lessin, Vernal and Sukhar, as alleged, constitutes concealment;

C. A judgment or order declaring that the conduct of Defendants Facebook, Inc., Zuckerberg, Cox, Oliván, Lessin, Vernal and Sukhar, as alleged, constitutes intentional misrepresentation;

D. A judgment or order declaring that the conduct of Defendants Facebook, Inc., Zuckerberg, Cox, Oliván, Lessin, Vernal and Sukhar, as alleged, constitutes negligent misrepresentation;

E. A judgment or order declaring that the conduct of Defendants Facebook, Inc., Zuckerberg, Cox, Oliván, Lessin, Vernal and Sukhar, as alleged, constitutes intentional interference with contract;

F. A judgment or order declaring that the conduct of Defendants Facebook, Inc., Zuckerberg, Cox, Olivan, Lessin, Vernal and Sukhar, as alleged, constitutes intentional interference with prospective economic relations;

G. A judgment or order declaring that the conduct of Defendants Facebook, Inc., Zuckerberg, Cox, Olivan, Lessin, Vernal and Sukhar, as alleged, constitutes negligent

1 interference with prospective business relations;

2 H. A judgment or order declaring that the conduct of Defendants Facebook, Inc.,  
3 Zuckerberg, Cox, Olivan, Lessin, Vernal and Sukhar, as alleged, violates California's False  
4 Advertising Law;

5 I. A judgment or order declaring that the conduct of Defendants Facebook, Inc.,  
6 Zuckerberg, Cox, Olivan, Lessin, Vernal and Sukhar, as alleged, violates California's Cartwright  
7 Act;

8 A. A judgment or order declaring the conduct of Defendants Facebook, Inc.,  
9 Zuckerberg, Cox, Olivan, Lessin, Vernal and Sukhar, as alleged, unlawful under California's  
10 Unfair Competition Law;

11 B. A judgment, order, or award of damages adequate to compensate Plaintiff;

12 C. A permanent injunction requiring Defendants Facebook, Inc., Zuckerberg, Cox  
13 and Olivan to: (1) restore the Graph API and enable users to fully control data access on  
14 Facebook and on third party applications; (2) implement proper privacy controls and measures in  
15 Facebook Platform to comply with the FTC Order, including (a) passing privacy settings for all  
16 Graph API v1.0 endpoints, (b) ceasing the practice of hiding the Apps Others Use privacy  
17 controls to create a single set of clear and consistent privacy controls, and (c) set the default  
18 sharing control to "off" rather than to "on"; (3) cease all projects in which Facebook fabricates  
19 the consent of users in order to access data they have not explicitly consented to sharing with  
20 Facebook, which harms all Developers and consumers who rely on Facebook and violates GDPR  
21 and California privacy law; (4) cease all App Review or Unified Review activities; and (5) cease  
22 all practices or occurrences on Facebook Platform where access to any product, free or paid, is  
23 predicated upon any other action or the delivery of any consideration which has not been  
24 published to all market participants in an arms-length transaction at standard public pricing terms.  
25 D. A permanent injunction prohibiting Defendants Facebook, Zuckerberg, Cox and  
26 Olivan from interfering with Plaintiff's contracts and those of any other Developer;

1 E. A permanent injunction prohibiting Defendants Facebook, Zuckerberg, Cox and  
2 Olivan from interfering with Plaintiff's prospective economic relations and those of any other  
3 Developer;


4 F. An award of Plaintiff's reasonable attorneys' fees and costs;

5 G. Punitive damages and/or treble damages as provided by applicable law; and

6 H. Such other further relief as this Court or a jury may deem proper and just.  
7

8 DATED: November 2, 2018

GROSS & KLEIN LLP

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10 By:   
Stuart G. Gross

*Attorneys for Plaintiff Styleform IT*  
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# **EXHIBIT 1**



## **f8 Event and Facebook Platform FAQ**

### **What is f8?**

f8 was an event held at the San Francisco Design Center on May 24, 2007, during which Mark Zuckerberg unveiled the next evolution of Facebook Platform. The event included an eight-hour “hackathon,” where both Facebook engineers and outside developers collaborated on building new applications on the new Facebook Platform.

### **What is a “hackathon”?**

A hackathon is an all-night coding event during which Facebook engineers work on any project that interests them. Facebook uses the word “hackathon” to refer to a gathering of engineers, who possess technical expertise and collaborate on innovative projects. Facebook has a tradition of holding frequent developer hackathons, which have spawned some of the most popular features and applications on the site.

### **What is Facebook Platform?**

Facebook Platform is a development system that enables companies and developers to build applications for the Facebook website, where all of Facebook’s 24 million active users can interact with them. Facebook Platform offers deep integration into the Facebook website, distribution through the social graph and an opportunity to build a business.

### **What is the social graph?**

The social graph is at the core of Facebook. It is the network of connections and relationships between people on Facebook and enables the efficient spreading and filtering of information. Just as people share information with their friends and the people around them in the real world, these connections are reflected online in the Facebook social graph.

### **What is a Facebook application?**

A Facebook application uses Facebook Platform to access information from the social graph, offering users an experience that’s relevant to them. Facebook applications can plug into the Facebook website in a number of ways: applications can be embedded on users’ profile pages, reside on their own separate pages (called “canvas” pages), or live through desktop applications using data from the Facebook social graph.

### **What’s new in Facebook Platform?**

We’ve been adding functionality since Facebook Platform first shipped in beta in August 2006. With the latest evolution of Facebook Platform however, third-party developers can now create applications on the Facebook site with the same level of integration as applications built by internal Facebook developers. Now developers everywhere have the ability to create Facebook applications that deeply integrate into the Facebook site, as well as the potential for mass distribution through the social graph and new business opportunities.

### **Why did Facebook launch Facebook Platform?**

Our engineers have created great applications for Facebook, but we recognized that third-party developers can help us make Facebook an even more powerful social utility. Facebook Platform gives developers everywhere the tools to create applications that we just wouldn’t have the resources to build in-house, and those applications make Facebook an even better way for our users to exchange information. Developers also benefit from Facebook Platform as it gives them the potential to broadly distribute their applications and even build new business opportunities.

### **What kinds of applications can be built on Facebook Platform?**

The kinds of applications developers can build on Facebook Platform are limited only by their imaginations. Because applications are based on the Facebook social graph they can be more relevant to users, keeping people in touch with what and whom they care about. We’ve already seen a variety of applications built by our developer partners, including those for sharing media files, book reviews, slideshows and more. Some of the



possibilities of Facebook applications are illustrated in the Facebook Platform Application Directory, available at <http://www.facebook.com/apps>.

#### **Are there any restrictions on what developers can build?**

Developers are encouraged to exercise their creativity when building applications. Of course, all applications are subject to the Terms of Service that every developer agrees to, which include basic requirements such as not storing any sensitive user information, not creating any offensive or illegal applications, and not building anything that phishes or spams users. And users will always have the power to report any applications that compromise Facebook's trusted environment, keeping our users' information safe.

#### **What are the benefits of Facebook Platform for users?**

With Facebook Platform, users gain the ability to define their experience on Facebook by choosing applications that are useful and relevant to them. Now that they have access to a virtually limitless set of applications from outside developers, users have an unprecedented amount of choice. They can share information and communicate with their trusted connections in ways that would never have been possible before Facebook opened its platform.

#### **How do users add applications to and remove applications from their account?**

If a user sees an application she likes on a friend's profile, she can add it to her account by clicking the "Add" link on the application's profile box. She can also add new applications by navigating to the application's specific page in the Facebook Platform Application Directory and clicking "Add Application" in the top-right corner. To remove an application, she first clicks "Applications" on the left navigation bar. From there, she can "Remove" any of the applications in her account, whether they are built by a developer partner or by Facebook.

#### **What are the privacy controls for Facebook Platform, and what kind of user information can be shared?**

On Facebook, users are always in control of their information and can choose how much of their information is made available to specific applications. With Facebook Platform, we're offering additional privacy controls and requiring that third parties treat user information with the same respect we do—and our users have come to expect. Users can also choose to completely opt out of making their data available through Facebook Platform. Applications can never violate users' basic privacy settings and are meant to provide users with a better opportunity to share their information with their friends and networks.

#### **What do third-party applications do with user information?**

Applications built by third parties are required to respect Facebook users' privacy preferences. Third-party applications allow users and their friends to share information in new ways, without affecting the security and privacy that they've always enjoyed on Facebook.

#### **How many applications are there for Facebook Platform?**

At f8, we are launching with over 85 applications from more than 65 developer partners, and that's only the beginning. We're encouraging interested developers everywhere to create Facebook applications. We have no limits on the number of applications that can be created.

#### **What differentiates Facebook applications from widgets on other sites?**

Facebook applications are deeply integrated into the site and take advantage of the network of real connections through which users share information and communicate—what we call the "social graph." Widgets are typically single-purpose Flash add-ons to a web page (i.e., displaying a single video) that are not fully integrated into a site nor are aware of the social context among users.

#### **How will Facebook maintain its minimalist style if users can add and move applications around on their profile?**

We're giving our users the choice to add applications and control their placement in their profiles, but we're not changing the essential layout and familiar style of the Facebook site. Facebook applications are focused on providing new ways to spread information on Facebook, not about redesigning the way a profile looks. For example, users will not be able to change the site background, add music that plays when their profiles load, or



insert animation into their profiles. Individual applications may play media, music or animations but only when a visitor to that profile interacts with them.

**How will Facebook deal with applications that compete with one another or even compete with Facebook-built applications?**

We welcome developers with competing applications, including developers whose applications might compete with Facebook-built applications. Many applications are likely to offer similar features. We've designed Facebook Platform so that applications from third-party developers are on a level playing field with applications built by Facebook. Ultimately, our users will decide which applications they find most useful, and it is these applications that will become the most popular.

**How will Facebook monetize Facebook Platform?**

All the great applications built by our developer partners provide a service to our users and strengthen the social graph. The result is even more engaged Facebook users creating more advertising opportunities.

**Can Facebook applications include ads?**

We want to enable developers to build a business on their Facebook applications, so we're giving developers the freedom to monetize their applications as they like. Developers can include advertising on their applications' canvas pages, though no advertising will be allowed within the application boxes that appear within user profiles.

**Are you going to share revenue with developers?**

While revenue sharing is not available at launch, we are looking into ways to share advertising revenue with developers. This version of Facebook Platform already lets developers monetize their applications as they like, whether they choose to offer it for free or build a business on their application.

**What are the key technical elements of Facebook Platform?**

Facebook Platform offers several technologies that help developers use data from the social graph. In addition to the Facebook API, this recently launched version of Facebook Platform introduces Facebook Markup Language (FBML), which enables developers to build applications that deeply integrate into the Facebook site. Facebook Platform also includes Facebook Query Language (FQL), which lets developers use a SQL-style interface to query the data they can access through the API.

For more details on the technology behind Facebook Platform, check out the Facebook Developer site at <http://developers.facebook.com>.

###

# **EXHIBIT 2**



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11 Attorneys for Plaintiff,  
12 SIX4THREE, LLC, a Delaware  
limited liability company

14 SUPERIOR COURT OF CALIFORNIA  
15 COUNTY OF SAN MATEO

17 SIX4THREE, LLC, a Delaware limited  
18 liability company,

19 Plaintiff,

20 v.

21 FACEBOOK, INC., a Delaware corporation;  
22 MARK ZUCKERBERG, an individual;  
23 CHRISTOPHER COX, an individual;  
24 JAVIER OLIVAN, an individual;  
25 SAMUEL LESSIN, an individual;  
26 MICHAEL VERNAL, an individual;  
27 ILYA SUKHAR, an individual; and  
28 DOES 1 through 50, inclusive,

Defendants.

Case No. CIV 533328

Assigned For All Purposes To  
Hon. Marie S. Weiner, Dept. 2

**FIFTH AMENDED COMPLAINT OF  
PLAINTIFF, SIX4THREE, LLC, FOR  
INJUNCTION AND DAMAGES**

HEARING DATE:  
HEARING TIME:  
DEPARTMENT 2 (Complex Civil)  
JUDGE: Hon. Marie S. Weiner  
FILING DATE: April 10, 2015  
TRIAL DATE: April 25, 2019



1 Plaintiff, Six4Three, LLC, alleges as follows:

2           1.       This matter concerns a series of fraudulent and anti-competitive schemes designed  
3 and effectuated by Facebook Chief Executive Officer Mark Zuckerberg (“Zuckerberg”) with the  
4 intention of deliberately misleading tens of thousands of software companies into developing  
5 applications that generated substantial user growth and revenues for Facebook to help it grow  
6 from 20 million active users in 2007 to over 1.6 billion by 2016. From May 2007 until at least  
7 May 2015, Facebook executed an anti-competitive bait-and-switch scheme in which it engaged in  
8 a campaign of misrepresentations, partial disclosures, and false enticements to Developers, like  
9 Plaintiff Six4Three, LLC (“643”), to induce them to invest capital and resources in building  
10 applications on Facebook’s operating system (“Facebook Platform”). These misrepresentations  
11 and partial disclosures, made in the form of official statements, announcements, videos and  
12 policies announced by Zuckerberg and other Facebook executives and which Facebook posted on  
13 its official website, as well as training sessions, conferences, hackathons and other events,  
14 represented that Developers would have the opportunity to build a business and distribute their  
15 applications organically; to compete on a level and fair playing field; and to access the data  
16 offered in Facebook Platform on terms equal to all other companies and to Facebook itself. These  
17 representations and partial disclosures around equal access and a level playing field were made  
18 repeatedly over seven years in private and public settings, such as official press releases and  
19 announcements on Facebook’s website, Developer training sessions managed by Facebook  
20 employees, and conferences, such as Facebook’s annual Developer conference, F8. These  
21 representations and partial disclosures were widely known in the software community, and 643  
22 relied upon them when deciding whether to build a business on Facebook Platform.

23           2.       These misrepresentations and partial disclosures fraudulently induced tens of  
24 thousands of software companies, including 643 (“Developers”), to enter into identical adhesion  
25 contracts with Facebook that placed a host of costly obligations and conditions on Developers in  
26 exchange for access to Facebook Platform’s social data (known as the “Graph API,” “Open  
27 Graph,” or “Social Graph”). Access to the Graph API enabled Developers to build more useful

1 applications that generated increased user engagement and revenues for both Developers and  
2 Facebook, as well as the opportunity for Developers to grow their applications organically due to  
3 features Facebook offered that made Facebook users prospective customers of Developer  
4 applications without requiring that the Developer purchase advertisements. Upon information and  
5 belief, Facebook at no time provided access to the Graph API on an equal basis, but rather offered  
6 large companies unfair competitive advantages and special access to data in exchange for  
7 unrelated advertising purchases or other in-kind consideration at the expense of small or new  
8 companies attempting to compete in Facebook's operating system.

9         3.       Upon information and belief, at Zuckerberg's personal direction, Facebook used  
10 its Platform as a weapon to gain leverage against competitors in a host of ways, threatening to  
11 shut down access to publicly available data to any company that crossed Facebook's radar in a  
12 wide range of circumstances, including threats to shut down data access: unless the company sold  
13 to Facebook for a purchase price below their fair market value; unless the company purchased  
14 large amounts of unrelated advertising with Facebook; unless the company transferred intellectual  
15 property over to Facebook; or unless the company fed all of its data back to Facebook, where it  
16 would then be available to the company's competitors, placing the company's business at great  
17 risk. Upon information and belief, at the personal direction of Zuckerberg, Facebook took full  
18 advantage of its incentives in serving as both the referee of and largest participant in one of the  
19 world's largest software economies and, consequently made a series of partial disclosures and  
20 misrepresentations that irreparably damaged tens of thousands of software applications and  
21 businesses to unjustly enrich Facebook and its executives.

22         4.       Further, upon information and belief, in 2012, Zuckerberg decided that it would be  
23 in Facebook's best interest to no longer compete with many Developers and to shut down their  
24 businesses by restricting their access to dozens of APIs containing the most valuable Graph API  
25 data, including the full friends list, friends permissions, newsfeed APIs, and other data types  
26 ("Graph API Data") upon which 643's business depended. Upon information and belief, working  
27 in concert with other Facebook executives and employees and other large companies that were  
28

1 close partners, Zuckerberg implemented a plan to deny access to many applications on Facebook  
2 Platform on the primary or exclusive basis that these applications were competitive with current  
3 or future products offered by Facebook or Facebook's close partners. Upon information and  
4 belief, Defendants' anti-competitive conduct was undertaken in concert with other large  
5 companies to oligopolize various software markets that Defendants continued to represent would  
6 operate on fair and equal terms.

7         5. Upon information and belief, Zuckerberg and other Facebook executives and  
8 employees actively, intentionally, recklessly, maliciously, oppressively, fraudulently and/or  
9 negligently concealed this decision to restrict Graph API Data from Developers, the public and  
10 internal employees while continuing to make misrepresentations and partial disclosures that  
11 enticed Developers to make investments in Facebook Platform until at least April 30, 2014 and, in  
12 643's case, until January 20, 2015, notwithstanding that Facebook had a duty to disclose this  
13 material fact that applications relying on Graph API Data would no longer function and that any  
14 investments made by Developers in such applications after the middle of 2012 would be  
15 irreparably damaged.

16         6. Facebook had a duty to disclose for a number of independent reasons, including:  
17 its standard adhesion contract which it enters into with all users and Developers (the "SRR" or  
18 "Agreement") and which specifies the commercial terms of a Developer's integration; the fact  
19 that Facebook and Developers shared confidential and highly sensitive and private personal  
20 information of consumers under the Agreement; the fact that Developers were required to share  
21 their source code and other confidential intellectual property with Facebook at Facebook's  
22 request under the Agreement; and the fact that Facebook made partial disclosures of fact to the  
23 public and Developers regarding how it collects, stores, and transmits user data while omitting  
24 material facts that would undermine and often contradict its partial disclosures. Facebook's duty  
25 to disclose also arises out of the fact that the Agreement is the single most entered-into contract in  
26 human history, with over 2 billion people and tens of millions of businesses entrusting Facebook  
27  
28



1 to manage their confidential, personal and private information under the terms of the Agreement,  
2 and therefore greatly implicates the public interest.

3 7. Upon information and belief, beginning in 2012 and continuing until 2015, at  
4 Zuckerberg's personal direction, Facebook executives instructed their subordinates to identify  
5 categories of applications that would be considered competitive and to develop a plan to remove  
6 access to critical data necessary for these applications to function, thereby eliminating  
7 competition across entire categories of software applications, including photo-sharing  
8 applications like the one 643 had begun building in December 2012, after Zuckerberg had already  
9 decided to restrict access to the Graph API Data necessary for 643's technology to function.

10 8. Upon information and belief, Facebook actively, maliciously, oppressively and  
11 fraudulently concealed the fact had that it would be restricting access to the Graph and continued  
12 to entice Developers to make such investments for at least two years and potentially longer. Had  
13 Facebook disclosed this fact within a reasonable time after making its decision, 643 would never  
14 have made investments of capital and resources in Facebook Platform. Instead, Facebook unjustly  
15 enriched itself through this fraudulent and anti-competitive conduct by enticing investments that  
16 generated revenues for Facebook with full knowledge that those investments would be irreparably  
17 damaged.

18 9. Further, upon information and belief, while actively suppressing this material  
19 information and continuing to entice companies to invest in building applications for Facebook  
20 Platform, Zuckerberg instructed certain Facebook executives to require or encourage their  
21 subordinates to engage in a number of collusive and anti-competitive schemes with other large  
22 companies. The schemes involved Facebook offering these companies unfair advantages via  
23 special data access in various software markets in exchange for unrelated advertising payments  
24 and/or other forms of cash or in-kind consideration that benefited Facebook. In doing so,  
25 Facebook and these other large companies held hostage data that Facebook previously promised  
26 would be available to all companies on neutral and equal terms to the systematic disadvantage of  
27 small or new companies, including 643, that had been competing in Facebook's purportedly fair

1 and neutral operating system. Smaller companies like 643 could no longer participate in one of  
2 the largest application and advertising economies globally, providing an immense advantage to  
3 large companies that combined and conspired with Facebook to control Graph API data that  
4 Facebook for years promised would be accessible on equal terms. Upon information and belief,  
5 certain Facebook executives actively encouraged their subordinates to conspire with large  
6 companies to offer them special access to data in exchange for unrelated cash payments in  
7 advertising expenditures or other in-kind consideration of financial benefit to Facebook. Upon  
8 information and belief, the conduct of the Facebook executives who participated in these schemes  
9 was undertaken in combination and concert with other large companies who benefited from the  
10 decision to restrict data access and eliminate competition in various software markets.

11 10. Finally, upon information and belief, beginning in 2013 and coalescing around  
12 February 2014, Zuckerberg concocted and disseminated a completely fabricated narrative to mask  
13 the deceptive and anti-competitive schemes that Zuckerberg and the other Facebook executives  
14 had decided upon and begun implementing in 2012. This fabricated narrative centered on the fact  
15 that the data being shut off to tens of thousands of smaller software companies was rarely used  
16 and/or violated user trust and control over their data. Upon information and belief, these  
17 fabricated reasons for shutting off data critical to the functioning of tens of thousands of  
18 applications played no role in the actual decisions made by Zuckerberg and ratified and  
19 implemented by other Facebook executives.

20 11. Further, once 643 entered into the Agreement with Facebook, Facebook had a duty  
21 to disclose material information, including the fact that Zuckerberg had already decided to shut  
22 down data access before 643 raised capital or entered into the Agreement with Facebook.  
23 Facebook provided notices to 643 via email many dozens of times between December 2012 and  
24 January 2015, and yet not a single communication from Facebook put 643 on notice of this  
25 material information that had already by 2012 made it impossible for 643 to recoup its  
26 investment. Upon information and belief, Facebook intentionally withheld and actively concealed  
27 this information and only made partial disclosures of this information to which it had exclusive  
28

1 knowledge in order to unjustly enrich Facebook and its executives, mitigate potential legal  
2 liability and avoid negative press. Facebook's partial disclosures of material information  
3 exclusively in its own possession fraudulently induced 643 to enter into contract with Facebook  
4 and build its business on Facebook Platform.

5 12. Upon information and belief, Facebook, at Zuckerberg's personal direction,  
6 deliberately suppressed material information and shared only partial information in Zuckerberg's  
7 April 30, 2014 F8 announcement, causing further harm to 643, in a malicious and fraudulent  
8 attempt to cover up the bait-and-switch schemes. For instance, Zuckerberg partially disclosed  
9 that Facebook was removing the Graph API Data, but failed to share the material fact that the  
10 data was not in fact being removed to everyone but was instead being privatized and made  
11 available to certain companies at the great expense of all others.

12 13. Upon information and belief, Zuckerberg and certain other Facebook executives  
13 conspired with and instructed their subordinates to conspire with other companies to engage in  
14 fraudulent bait-and-switch schemes and repeatedly acted negligently, fraudulently and  
15 maliciously in violation of California law to the detriment of consumers and tens of thousands of  
16 small software companies, whose investments unjustly enriched Facebook, Zuckerberg and the  
17 Facebook executives who conspired and actively participated in these schemes. The alleged  
18 conduct of Zuckerberg and the other Facebook executives amounts to a classic bait-and-switch  
19 tactic barred by California's Unfair Competition Law.

20 14. Around the time Zuckerberg made this decision to engage in the alleged fraudulent  
21 and anti-competitive schemes, Facebook's stock price had dropped by more than half from its  
22 initial IPO in May 2012, reaching a low of \$37 billion in September 2012. Zuckerberg personally  
23 lost approximately \$10 billion in the period during which he decided to implement the fraudulent  
24 and anti-competitive schemes. After Zuckerberg decided upon and implemented the alleged  
25 fraudulent and anti-competitive schemes, the downward trajectory of Facebook's stock reversed  
26 course and began its rapid climb to a \$400 billion market capitalization as of March 10, 2017, a  
27 ten-fold increase from the low it had reached prior to Zuckerberg engaging in the alleged conduct.

1 Upon information and belief, Zuckerberg and certain other Facebook executives were greatly  
2 enriched as a result of the alleged conduct on the order of millions or billions of dollars. The  
3 alleged conduct was a substantial factor in the turnaround of Facebook's stock price and the  
4 growth of its business.

5 15. Upon information and belief, Mark Zuckerberg was the Chief Executive Officer of  
6 Facebook, Inc. during the time over which the alleged conduct occurred and personally made the  
7 decisions comprising the alleged conduct, including: (1) the decision to use Facebook Platform as  
8 a weapon of leverage in various bait-and-switch schemes to unjustly enrich Facebook and certain  
9 of its executives; (2) the decision to fraudulently, negligently, intentionally, maliciously and  
10 oppressively misrepresent Facebook's plans regarding Facebook Platform before and after  
11 Facebook had already decided to restrict Graph API Data around in 2012; (3) the decision to  
12 actively conceal material information and make only partial disclosures of material facts to tens  
13 of thousands of companies, including 643, for almost two years, and potentially longer,  
14 notwithstanding that Facebook was under a duty to disclose other material facts that entirely  
15 undermined and contradicted its partial disclosures; (4) the decision to conspire with large  
16 companies to restrict access to data that Facebook promised for seven years would be available to  
17 all companies on neutral and equal terms in exchange for large cash payments in advertising  
18 and/or other in-kind consideration that greatly benefited Facebook; and (5) the decision in 2013  
19 and early 2014 to concoct an entirely fabricated narrative in order to mask Facebook's true  
20 intentions around its deceptive and anti-competitive schemes.

21 16. Upon information and belief, Christopher Cox was the VP Product and/or Chief  
22 Product Officer of Facebook, Inc. during the period in question and was responsible for deciding  
23 upon and implementing key components of Zuckerberg's fraudulent and anti-competitive  
24 schemes. Cox actively approved, participated, ratified, directed and acquiesced in the conspiracies  
25 and schemes alleged herein, including directing subordinates to increasingly expand the definition  
26 of competitive applications whose access to data would be removed.



17. Upon information and belief, Javier Olivan was the Vice President of Growth of Facebook, Inc. during the period in question and was responsible for deciding upon and implementing key components of Zuckerberg's fraudulent and anti-competitive schemes. Olivan actively approved, participated, ratified, directed and acquiesced in the conspiracies and schemes alleged herein, including directing subordinates to increasingly expand the definition of competitive applications whose access to data would be removed.

18. Upon information and belief, Samuel Lessin was the Director of Product and/or Vice President of Product Management of Facebook, Inc. during the period in question and was responsible for deciding upon and implementing key components of Zuckerberg's fraudulent and anti-competitive schemes. Lessin actively approved, participated, ratified, directed and acquiesced in the conspiracies and schemes alleged herein, including directing subordinates to increasingly expand the definition of competitive applications whose access to data would be removed.

19. Upon information and belief, Michael Vernal was the Vice President of Engineering of Facebook, Inc. during the period in question and was responsible for deciding upon and implementing key components of Zuckerberg's fraudulent and anti-competitive schemes. Vernal actively approved, participated, ratified, directed and acquiesced in the conspiracies and schemes alleged herein, including architecting and overseeing the implementation plan to cause tens of thousands of software applications to cease functioning in order to oligopolize various software markets for the benefit of Facebook and Facebook's close partners.

20. Upon information and belief, Ilya Sukhar was the Vice President of Developer Products of Facebook, Inc. during the period in question and was responsible for deciding upon and implementing key components of Zuckerberg's fraudulent and anti-competitive schemes. Sukhar actively approved, participated, ratified, directed and acquiesced in the conspiracies and schemes alleged herein.

1 PARTIES

2 21. Plaintiff 643 is a Delaware Limited Liability Corporation with a principal place of  
3 business at 535 Mission Street, 14th Floor, San Francisco, California.

4 22. Upon information and belief, Defendant Facebook, Inc., is a Delaware Corporation  
5 with a principal place of business at One Hacker Way, Menlo Park, California.

6 23. Upon information and belief, Defendant Mark Zuckerberg was the Chief  
7 Executive Officer of Facebook, Inc. during the time over which the alleged conduct occurred and  
8 personally made the decisions comprising the alleged conduct, including: (1) the decision to use  
9 Facebook Platform as a 'bait and switch' scheme to unjustly enrich Facebook and the individual  
10 Defendants; (2) the decision to fraudulently, negligently, intentionally, maliciously and  
11 oppressively misrepresent Facebook's plans regarding Facebook Platform before and *after*  
12 Facebook had already decided to restrict Graph data around the middle of 2012; (3) the decision  
13 to actively conceal material information to tens of thousands of companies, including 643, for  
14 almost two years, and potentially longer, notwithstanding that Facebook was under a duty to  
15 disclose such information; (3) the decision to conspire with large companies to restrict access to  
16 data that Facebook promised for seven years would be available to all companies on neutral and  
17 equal terms in exchange for large cash payments in advertising and/or other in-kind consideration  
18 that greatly benefited Facebook; and (4) the decision in late 2013 and early 2014 to concoct an  
19 entirely fabricated narrative in order to mask Facebook's true intentions around its deceptive and  
20 anti-competitive schemes. Upon information and belief, Zuckerberg made and directed Facebook  
21 employees to make false statements and to maliciously suppress material facts from at least 2009  
22 through 2015 regarding Facebook's management of Facebook Platform with the intention of  
23 inducing investment from software companies to build applications on Facebook Platform  
24 notwithstanding that Zuckerberg knew these investments would be irreparably damaged. Upon  
25 information and belief, Zuckerberg was aware these statements were false at the time they were  
26 made and that the facts suppressed would have materially qualified the partial disclosures he  
27 authorized or personally made. Upon information and belief, Zuckerberg engaged in this

1 wrongful and malicious conduct precisely in order to damage (and with full knowledge of the  
2 proximate damage to) these 40,000 or more software applications, including Plaintiff's  
3 application ("App"), to fulfill his primary goals of removing competitive threats to Facebook's  
4 planned products and propping up Facebook's mobile advertising business by holding software  
5 companies hostage. Upon information and belief, Zuckerberg was aware that these 40,000 or  
6 more software applications, including Plaintiff's App, had contracts with their end users that  
7 would be breached or otherwise interrupted by Zuckerberg's intentional, wrongful, malicious,  
8 oppressive, fraudulent and negligent conduct because the adhesion contract software companies,  
9 including Plaintiff, entered into with Facebook required them to maintain such contracts with  
10 their end users.

11       24. Upon information and belief, Defendant Christopher Cox was the VP Product  
12 and/or Chief Product Officer of Facebook, Inc. during the period in question and was responsible  
13 for deciding upon and implementing key components of Zuckerberg's fraudulent and anti-  
14 competitive schemes. Cox actively approved, participated, ratified, directed and acquiesced in the  
15 conspiracies and schemes alleged herein, including directing subordinates to increasingly expand  
16 the definition of competitive applications whose access to data would be removed. Upon  
17 information and belief, Cox made and directed Facebook employees to make false statements and  
18 to maliciously suppress material facts from at least 2009 through 2015 regarding Facebook's  
19 management of Facebook Platform with the intention of inducing investment from software  
20 companies to build applications on Facebook Platform notwithstanding that Cox knew these  
21 investments would be irreparably damaged. Upon information and belief, Cox was aware these  
22 statements were false at the time they were made and that the facts suppressed would have  
23 materially qualified the partial disclosures he authorized or personally made. Upon information  
24 and belief, Cox engaged in this wrongful and malicious conduct precisely in order to damage (and  
25 with full knowledge of the proximate damage to) these 40,000 or more software applications,  
26 including Plaintiff's App, to fulfill his primary goals of removing competitive threats to  
27 Facebook's planned products and propping up Facebook's mobile advertising business by holding  
28

1 software companies hostage. Upon information and belief, Cox was aware that these 40,000 or  
2 more software applications, including Plaintiff's App, had contracts with their end users that  
3 would be breached or otherwise interrupted by Cox's intentional, wrongful, malicious,  
4 oppressive, fraudulent and negligent conduct because the adhesion contract software companies,  
5 including Plaintiff, entered into with Facebook required them to maintain such contracts with  
6 their end users.

7         25. Upon information and belief, Defendant Javier Olivan was the Vice President of  
8 Growth of Facebook, Inc. during the period in question and was responsible for deciding upon  
9 and implementing key components of Zuckerberg's fraudulent and anti-competitive schemes.  
10 Olivan actively approved, participated, ratified, directed and acquiesced in the conspiracies and  
11 schemes alleged herein, including directing subordinates to increasingly expand the definition of  
12 competitive applications whose access to data would be removed. Upon information and belief,  
13 Olivan repeatedly required the Facebook Platform team to shut down applications on the  
14 exclusive basis that they were competitive with Facebook and further required the Platform team  
15 to re-architect the APIs Facebook made available to make it more difficult for other software  
16 companies to compete with Facebook on a level playing field, including removal of the friends  
17 list API, friends permissions APIs, newsfeed APIs, user ID APIs, and others. Upon information  
18 and belief, Olivan directed numerous projects at Facebook that intentionally violated user privacy  
19 in order to give Facebook's products an unfair competitive advantage relative to other Platform  
20 apps. Upon information and belief, Olivan made and directed Facebook employees to make false  
21 statements and to maliciously suppress material facts from at least 2009 through 2015 regarding  
22 Facebook's management of Facebook Platform with the intention of inducing investment from  
23 software companies to build applications on Facebook Platform notwithstanding that Olivan  
24 knew these investments would be irreparably damaged. Upon information and belief, Olivan was  
25 aware these statements were false at the time they were made and that the facts suppressed would  
26 have materially qualified the partial disclosures he authorized or personally made. Upon  
27 information and belief, Olivan engaged in this wrongful and malicious conduct precisely in order



1 to damage (and with full knowledge of the proximate damage to) these 40,000 software  
2 applications, including Plaintiff's App, to fulfill his primary goals of removing competitive  
3 threats to Facebook's planned products and propping up Facebook's mobile advertising business  
4 by holding software companies hostage. Upon information and belief, Olivan was aware that  
5 these 40,000 or more software applications, including Plaintiff's App, had contracts with their  
6 end users that would be breached or otherwise interrupted by Olivan's intentional, wrongful,  
7 malicious, oppressive, fraudulent and negligent conduct because the adhesion contract software  
8 companies, including Plaintiff, entered into with Facebook required them to maintain such  
9 contracts with their end users. Upon information and belief, Zuckerberg directed Olivan (along  
10 with Lessin) to oversee Vernal's Platform team to make sure Facebook properly executed its goal  
11 of removing thousands of competitive threats by privatizing Graph API.

12         26. Upon information and belief, Defendant Samuel Lessin was the Director of  
13 Product and/or Vice President of Product Management of Facebook, Inc. during the period in  
14 question and was responsible for deciding upon and implementing key components of  
15 Zuckerberg's fraudulent and anti-competitive schemes. Lessin actively approved, participated,  
16 ratified, directed and acquiesced in the conspiracies and schemes alleged herein, including  
17 directing subordinates to increasingly expand the definition of competitive applications whose  
18 access to data would be removed. Upon information and belief, in the summer and fall of 2012,  
19 Lessin worked with Zuckerberg and other Facebook executives like Sheryl Sandberg, Andrew  
20 Bosworth and Dan Rose to weaponize developers' reliance on Facebook Platform by threatening  
21 to break many software applications unless the developer made significant purchases in unrelated  
22 advertising using Facebook's new mobile advertising product. Upon information and belief,  
23 Lessin was instrumental in developing the plan whereby Facebook approached companies to buy  
24 advertising under the threat that if they did not do so, Facebook would break their applications by  
25 removing access to public Platform data. Upon information and belief, Lessin made and directed  
26 Facebook employees to make false statements and to maliciously suppress material facts from at  
27 least 2009 through 2015 regarding Facebook's management of Facebook Platform with the

1 intention of inducing investment from software companies to build applications on Facebook  
2 Platform notwithstanding that Lessin knew these investments would be irreparably damaged.  
3 Upon information and belief, Lessin was aware these statements were false at the time they were  
4 made and that the facts suppressed would have materially qualified the partial disclosures he  
5 authorized or personally made. Upon information and belief, Lessin engaged in this wrongful and  
6 malicious conduct precisely in order to damage (and with full knowledge of the proximate  
7 damage to) these 40,000 software applications, including Plaintiff's App, to fulfill his primary  
8 goals of removing competitive threats to Facebook's planned products and propping up  
9 Facebook's mobile advertising business by holding software companies hostage. Upon  
10 information and belief, Lessin was aware that these 40,000 or more software applications,  
11 including Plaintiff's App, had contracts with their end users that would be breached or otherwise  
12 interrupted by Lessin's intentional, wrongful, malicious, oppressive, fraudulent and negligent  
13 conduct because the adhesion contract software companies, including Plaintiff, entered into with  
14 Facebook required them to maintain such contracts with their end users. Upon information and  
15 belief, Zuckerberg directed Lessin (along with Olivan) to oversee Vernal's Platform team to make  
16 sure Facebook properly executed its goal of propping up its mobile advertising business by  
17 privatizing Graph API.

18         27. Upon information and belief, Defendant Michael Vernal was the Vice President of  
19 Engineering of Facebook, Inc. during the period in question and was charged with direct  
20 oversight of Facebook Platform. As such, Vernal was responsible for deciding upon and  
21 implementing key components of Zuckerberg's fraudulent and anti-competitive schemes. Vernal  
22 actively approved, participated, ratified, directed and acquiesced in the conspiracies and schemes  
23 alleged herein, including architecting and overseeing the implementation plan to cause tens of  
24 thousands of software applications to cease functioning in order to oligopolize various software  
25 markets for the benefit of Facebook and Facebook's close partners. Upon information and belief,  
26 Zuckerberg directed Vernal to be the front man internally for this bait and switch scheme with  
27 full responsibility for its design and implementation such that many employees at Facebook were  
28

1 for years under the impression that the API restrictions were Vernal's idea. Upon information and  
2 belief, Vernal made and directed Facebook employees to make false statements and to  
3 maliciously suppress material facts from at least 2009 through 2015 regarding Facebook's  
4 management of Facebook Platform with the intention of inducing investment from software  
5 companies to build applications on Facebook Platform notwithstanding that Vernal knew these  
6 investments would be irreparably damaged. Upon information and belief, Vernal was aware these  
7 statements were false at the time they were made and that the facts suppressed would have  
8 materially qualified the partial disclosures he authorized or personally made. Upon information  
9 and belief, Vernal engaged in this wrongful and malicious conduct precisely in order to damage  
10 (and with full knowledge of the proximate damage to) these 40,000 software applications,  
11 including Plaintiff's App, to fulfill his primary goals of removing competitive threats to  
12 Facebook's planned products and propping up Facebook's mobile advertising business by holding  
13 software companies hostage. Upon information and belief, Vernal was aware that these 40,000 or  
14 more software applications, including Plaintiff's App, had contracts with their end users that  
15 would be breached or otherwise interrupted by Vernal's intentional, wrongful, malicious,  
16 oppressive, fraudulent and negligent conduct because the adhesion contract software companies,  
17 including Plaintiff, entered into with Facebook required them to maintain such contracts with  
18 their end users.

19         28. Upon information and belief, Defendant Ilya Sukhar was the Vice President of  
20 Developer Products of Facebook, Inc. during the period in question and was responsible for  
21 deciding upon and implementing key components of Zuckerberg's fraudulent and anti-  
22 competitive schemes. Sukhar actively approved, participated, ratified, directed and acquiesced in  
23 the conspiracies and schemes alleged herein, including architecting and overseeing the plan to  
24 achieve support among Facebook employees and Developers around the fabricated narrative  
25 Zuckerberg manufactured to conceal his various anti-competitive schemes. Upon information and  
26 belief, Zuckerberg directed Sukhar in the second half of 2013 and early 2014 to serve as the front  
27 man externally for the bait and switch scheme in light of Sukhar's respected reputation among the  
28



1 software developer community. Upon information and belief, Sukhar made and directed  
2 Facebook employees to make false statements and to maliciously suppress material facts from at  
3 least 2013 through 2015 regarding Facebook's management of Facebook Platform with the  
4 intention of inducing investment from software companies to build applications on Facebook  
5 Platform notwithstanding that Sukhar knew these investments would be irreparably damaged.  
6 Upon information and belief, Sukhar was aware these statements were false at the time they were  
7 made and that the facts suppressed would have materially qualified the partial disclosures he  
8 authorized or personally made. Upon information and belief, Sukhar engaged in this wrongful and  
9 malicious conduct precisely in order to damage (and with full knowledge of the proximate  
10 damage to) these 40,000 software applications, including Plaintiff's App, to fulfill his primary  
11 goals of removing competitive threats to Facebook's planned products and propping up  
12 Facebook's mobile advertising business by holding software companies hostage. Upon  
13 information and belief, Sukhar was aware that these 40,000 or more software applications,  
14 including Plaintiff's App, had contracts with their end users that would be breached or otherwise  
15 interrupted by Sukhar's intentional, wrongful, malicious, oppressive, fraudulent and negligent  
16 conduct because the adhesion contract software companies, including Plaintiff, entered into with  
17 Facebook required them to maintain such contracts with their end users. Upon information and  
18 belief, Sukhar worked with Zuckerberg directly to concoct a fabricated narrative around user trust  
19 in late 2013 and early 2014 that intentionally and maliciously concealed critical facts related to  
20 Facebook's anti-competitive data restrictions in order to avoid legal and public relations  
21 ramifications for Zuckerberg's bait and switch scheme.

22         29. Plaintiff is ignorant of the true names and capacities of the Defendants sued herein  
23 as Does 1 through 50, inclusive, and each of them, and therefore sues said Defendants by such  
24 fictitious names. Plaintiff will amend this complaint when the true names and capacities of said  
25 Defendants have been ascertained. Plaintiff is informed and believes and thereon alleges, that  
26 Defendants Does 1 through 50, inclusive, and each of them, are legally responsible in some  
27 manner for the events and happenings referred to herein and proximately caused or contributed to  
28



1 the injuries to Plaintiff as hereinafter alleged. Wherever in this complaint any Defendant is the  
2 subject of any charging allegation by Plaintiff, it shall be deemed that said Defendants Does 1  
3 through 50, inclusive, and each of them, are likewise the subjects of said charging allegation.

4 30. Plaintiff is informed and believes, and thereon alleges, that at all times herein  
5 mentioned, each of the Defendants was the agent and employee of each of the remaining  
6 Defendants and, in doing the things herein alleged, was acting within the course and scope of said  
7 agency and employment.

### 8 FACTS

9 31. 643 is an image pattern recognition and media sharing (e.g. photo, video) startup  
10 company. 643's principals are users of Facebook and subject to Facebook's Statement of Rights  
11 and Responsibilities ("SRR").

12 32. Facebook operates a social networking service that enables users to connect and  
13 share information with their friends and family.

14 33. Facebook refers to the network of relationships among its users and the associated  
15 data elements as the "Graph," "Open Graph" or the "Social Graph."

16 34. The Facebook Developer Platform (also called "Facebook Platform") enables  
17 Developers to make applications and other services available to Facebook users using data from  
18 the Graph via the Graph API, similar to how software companies can build applications on  
19 Windows or Mac operating systems except with the advantage of using Facebook's inherently  
20 social data. The Facebook Platform is one of the world's largest software economies globally and  
21 the economic activity it generates is larger than the GDP of many sovereign nations.

#### 22 **I. ZUCKERBERG LAUNCHES FACEBOOK PLATFORM IN MAY 2007,** 23 **PROMISING EQUAL ACCESS AND A LEVEL PLAYING FIELD TO ALL** 24 **MARKET PARTICIPANTS**

25 35. At 3PM PDT on May 24, 2007, Mark Zuckerberg, Facebook Founder and CEO,  
26 made a self-described revolutionary announcement to a crowded room of software developers in  
27 San Francisco. Zuckerberg announced the launch of Facebook Platform, which he had described  
28 weeks earlier in an interview with Fortune magazine as "the most powerful distribution

1 mechanism that's been created in a generation."<sup>1</sup> He went on in the Fortune interview to describe  
2 the motivation for creating Facebook Platform in this way: "We want to make Facebook into  
3 something of an operating system so you can run full applications," specifying that this  
4 development was the internet-equivalent to what Microsoft did with Windows, which allowed  
5 other developers to build applications for PCs. (See  
6 <http://archive.fortune.com/2007/05/24/technology/facebook.fortune/index.htm>.)

7 36. In fact, Zuckerberg's first demonstration of Facebook Platform was purportedly to  
8 Bill Gates in early May 2007. Microsoft and Facebook had reached an agreement for Microsoft to  
9 purchase banner ads on Facebook in which Microsoft had guaranteed Facebook a minimum of  
10 \$100 million per year through 2011. Facebook Platform was positioned by Facebook to Microsoft  
11 as the driving force behind meeting Facebook's ambitious growth metrics. At the time of this  
12 announcement, Facebook had just exceeded 20 million active users and had raised only \$37.7  
13 million in venture capital investment. Even at this modest point in Facebook's growth, its photo  
14 sharing application was the largest photo application on the Internet, and according to Facebook's  
15 own internal statistics, drew more than twice the traffic of the next three photo sites combined at  
16 the time of the May 24, 2007 announcement of Facebook Platform.

17 37. Zuckerberg announced that the three key elements of Facebook Platform were  
18 "deep integration, mass distribution, and new opportunity." These were three key themes he  
19 would repeat throughout the day and for years to come in numerous public conversations and  
20 presentations. (See <https://gigaom.com/2007/05/24/live-at-the-facebook-launch/>.)

21 38. Thus, Zuckerberg made three distinct representations of fact: (1) Developers  
22 would have deep integration with Facebook's social graph; (2) Developers would have  
23 Facebook's support in achieving mass distribution of their applications; and (3) Developers  
24 would have an opportunity to build a business on Facebook.

25  
26  
27 <sup>1</sup> In the quoted text here and elsewhere in the Fourth Amended Complaint, representations by  
28 Facebook or its employees have been underlined for emphasis.

39. By 8PM that evening, these key elements were memorialized on Facebook's website with the official announcement "Facebook Platform Launches", stating "You can now build applications that have the same access to integration into the social graph as Facebook applications, such as photos, notes, and events.... The power of mass distribution is now in your hands. You can gain distribution for your applications through the social graph like never before. Applications can be virally engineered to reach millions of Facebook users quickly and efficiently through the profile, news feed, and mini-feed.... With access to deep integration into the site, and mass distribution through the social graph comes a new opportunity for you to build a business with your application. You are free to monetize your canvas pages through advertising or other transactions that you control." (See Facebook Platform Launches, <http://web.archive.org/web/20070706002021/http://developers.facebook.com/news.php?blog=1&story=21>).

40. Facebook's announcement thus represented that (1) Developers have the "same access to integration" for applications such as photos and notes as Facebook employees; (2) Developers are able to distribute applications through Facebook Platform; and (3) Developers are able to monetize applications through Facebook Platform.

41. Zuckerberg went on to say: “The social graph is our base, and we’ve built a framework that is completely optimized for developing social applications within our environment.... We believe that there is more value for everyone in letting other people develop applications on top of the base we’ve built than we could ever possibly provide on our own.... This is good for us because if developers build great applications then they’re providing a service to our users and strengthening the social graph.... This is a big opportunity. We provide the integration and distribution and developers provide the applications. We help users share more information and together we benefit.”

42. Zuckerberg thus represented that Facebook is committed long term to serving as a platform that enables Developers to build applications on a level playing field because it is a big opportunity for everyone.

1           43.     Zuckerberg then announced that Facebook had been working with over 70  
2 developers in anticipation of the launch of Facebook Platform, including Amazon, Forbes, iLike,  
3 Lending Club, Microsoft, Obama for America, Photobucket, Red Bull, Twitter, Uber, Virgin  
4 Mobile USA, Warner Bros, Washington Post and many others. (See live blog of F8 event from  
5 leading Internet blogger, Mashable, at [http://mashable.com/2007/05/24/facebook-f8-](http://mashable.com/2007/05/24/facebook-f8-live/#CIfbgFfPV5q0)  
6 [live/#CIfbgFfPV5q0](http://mashable.com/2007/05/24/facebook-f8-live/#CIfbgFfPV5q0).)

7           44.     Around 4PM during Zuckerberg's presentation, he announced 5 case studies from  
8 these early developer partners aimed at showing how easy it was for all developers to integrate  
9 with Facebook Platform. Zuckerberg distributed case studies from Red Bull, Box.net, Lending  
10 Club, Microsoft and Slide.com. Zuckerberg continued to emphasize during this public, annual  
11 keynote to Developers that Facebook Platform is the single biggest and most revolutionary  
12 change to Facebook since its inception, stating: "Every once in a while a platform comes along  
13 that allows people to build a completely new application—sometimes even start new industries."  
14 (See <https://gigaom.com/2007/05/24/live-at-the-facebook-launch/>.)

15           45.     GigaOm, a leading Internet blogger, live blogged the event and further quoted  
16 Zuckerberg as saying: "With photo-sharing, he explained, 'it's not just the photos that spread, it's  
17 the whole photos application'. Third-party applications won't be treated like second-class citizens  
18 on Facebook, he says; users can add them to their profiles and drag them and drop them to their  
19 content. Applications can use Flash, JavaScript, and Silverlight if a user approves them. Outside  
20 applications can issue unlimited notifications to users, and fit into the Facebook environment by  
21 accessing a 'friend selector' that spits out each user's connections. Now Zuckerberg says you can  
22 serve ads on your app pages and keep all the revenue, sell them yourselves or use a network, and  
23 process transactions within the site, keeping all the revenue without diverting users off  
24 Facebook." (See <https://gigaom.com/2007/05/24/live-at-the-facebook-launch/>.)

25           46.     Zuckerberg thus represented that (1) developer applications won't be "second class  
26 citizens"; (2) developer applications can access a user's connections and related user data made  
27  
28



1 available in the social graph; and (3) developer applications can sell ads through the Facebook  
2 Platform.

3 47. This grandiose language from Zuckerberg sparked substantial questions from the  
4 Developer community so by 4:20 p.m. pacific (1 hour and 20 minutes after the keynote had  
5 started), Facebook released the official "Facebook Platform FAQ", which was being circulated  
6 across the Internet and available on Facebook's official website to educate developers on this  
7 announcement. The Facebook Platform FAQ was an official document released by Facebook to  
8 address material facts that enabled Developers to make an informed decision around whether to  
9 invest capital and resources in building applications for Facebook Platform (See Exhibit 1,  
10 Facebook F8 and Platform FAQ.) The Facebook Platform FAQ states, among other things:

11 **What is Facebook Platform?** Facebook Platform is a development system that enables  
12 companies and developers to build applications for the Facebook website, where all of  
13 Facebook's 24 million active users can interact with them. Facebook Platform offers deep  
14 integration in the Facebook website, distribution through the social graph and an  
15 opportunity to build a business.

16 \* \* \*

17 **What's new in Facebook Platform?** We've been adding functionality since Facebook  
18 Platform first shipped in beta in August 2006. With the latest evolution of Facebook  
19 Platform however, third-party developers can now create applications on the Facebook  
20 site with the same level of integration as applications built by internal Facebook  
21 developers. Now developers everywhere have the ability to create Facebook applications  
22 that deeply integrate into the Facebook site, as well as the potential for mass distribution  
23 through the social graph and new business opportunities.

24 \* \* \*

25 **Why did Facebook launch Facebook Platform?** Our engineers have created great  
26 applications for Facebook, but we recognized that third-party developers can help us make  
27 Facebook an even more powerful social utility. Facebook Platform gives developers  
28

1 everywhere the tools to create applications that we just wouldn't have the resources to  
2 build in-house, and those applications make Facebook an even better way for our users to  
3 exchange information. Developers also benefit from the Facebook Platform as it gives  
4 them the potential to broadly distribute their applications and even build new business  
5 opportunities.

6 \* \* \*

7 **What kinds of applications can be built on Facebook Platform?** The kinds of  
8 applications developers can build on Facebook Platform are limited only by their  
9 imaginations. Because applications are based on the Facebook social graph they can be  
10 more relevant to users, keeping people in touch with what and whom they care about.  
11 We've already seen a variety of applications built by our developer partners, including  
12 those for sharing media files, book reviews, slideshows and more. Some of the  
13 possibilities of Facebook applications are illustrated in the Facebook Platform Application  
14 Directory, available at <http://facebook.com/apps>.

15 \* \* \*

16 **Are there any restrictions on what developers can build?** Developers are encouraged  
17 to exercise their creativity when building applications. Of course, all applications are  
18 subject to the Terms of Service that every developer agrees to, which include basic  
19 requirements such as not storing any sensitive user information, not creating any offensive  
20 or illegal applications, and not building anything that phishes or spams users. And users  
21 will always have the power to report any applications that compromise Facebook's trusted  
22 environment, keeping our users' information safe.

23 \* \* \*

24 **How will Facebook deal with applications that compete with one another or even**  
25 **compete with Facebook-built applications?** We welcome developers with competing  
26 applications, including developers whose applications might compete with Facebook-built  
27 applications. Many applications are likely to offer similar features. We've designed

1 Facebook Platform so that applications from third-party developers are on a level playing  
2 field with applications built by Facebook. Ultimately, our users will decide which  
3 applications they find most useful, and it is these applications that will become the most  
4 popular.

5 \* \* \*

6 **Can Facebook applications include ads?** We want to enable developers to build a  
7 business on their Facebook applications, so we're giving developers the freedom to  
8 monetize their applications as they like. Developers can include advertising on their  
9 applications' canvas pages, though no advertising will be allowed within the application  
10 boxes that appear within user profiles.

11 \* \* \*

12 **Are you going to share revenue with developers?** While revenue sharing is not  
13 available at launch, we are looking into ways to share advertising revenue with  
14 developers. The version of Facebook Platform already lets developers monetize their  
15 applications as they like, whether they choose to offer it for free or to build a business on  
16 their application.

17 48. In sum, these representations by Facebook reflected the following explicit  
18 promises to Developers:

- 19 a. Developers would have "deep integration";
- 20 b. Developers would have access to the "social graph";
- 21 c. Developers would have "an opportunity to build a business."
- 22 d. Developers would have the same level of integration and ability to develop apps in
- 23 the same manner as internal Facebook employees;
- 24 e. Facebook will provide adequate tools necessary for Developers to build their
- 25 applications;
- 26 f. Facebook will help Developers achieve broad distribution of their applications;
- 27 g. so long as applications abide by Facebook's Terms of Service, Developer Policies
- 28 and other binding commitments Developers make in order to participate in

Facebook Platform, Facebook will remain neutral as to the applications built on its operating system;

- h. any application that does not violate its agreement with Facebook, phish or spam users, contain offensive material, or break the law shall be accepted in Facebook Platform;
- i. competing applications are welcome on Facebook's operating system;
- j. Facebook will remain neutral among competing applications;
- k. Facebook will remain neutral among its own applications and those of developers regardless of whether they compete or not;
- l. applications similar in purpose and content will be allowed to compete on a "level playing field"
- m. "level playing field" constitutes a definition of fairness in market competition, and that definition of fairness means that ultimately users will decide which applications win the market, not Facebook or other third parties;
- n. implicit in this definition of fairness based on user decision is the necessary consequence that Facebook shall take no actions to promote its own applications or preferred applications from companies that have a special relationship with Facebook in order to slant this playing field in a manner that makes it less likely for users ultimately to decide the winner;
- o. Facebook will enable Developers to build businesses on their operating system by directly monetizing their applications on Facebook;
- p. Developers will be able to sell ads on their application pages; and
- q. Developers will have a choice as to whether they monetize their application on Facebook's operating system.

## **II. DEVELOPERS RESPONDED ENTHUSIASTICALLY TO THE LAUNCH OF FACEBOOK PLATFORM**

49. The blogging community went into an immediate and prolonged frenzy over this announcement. Paul B. Allen, founder of Ancestry.com and well-known Internet blogger, summed up the general sentiment expressed by countless bloggers when he wrote that same day, "I saw history in the making today...I was lucky enough to be in San Francisco for the Facebook F8 Platform launch event. This announcement was at least an 8.0 on the Richter scale. It was a whopper.... A huge new opportunity was presented to the few hundred people in the room, including 65 companies that have spent the last few weeks developing applications for the launch



1 of Facebook Platform. Facebook is inviting anyone to develop applications for their users on top  
2 of what Mark calls their “social graph” – the core of their service which basically keeps track of  
3 real people and their real connections to each other.... [Facebook’s] growth will be dramatically  
4 accelerated by the Platform announcement. If Facebook is adding 100,000 new users per day with  
5 its own few simple applications (like its photo sharing, a very simple service that has given  
6 Facebook twice as many photos as all other photo sharing sites combined), what will happen  
7 when thousands or tens of thousands of developers start building apps in Facebook and marketing  
8 them to more users? Facebook will reach 50 million, then 100 million, then 200 million users, and  
9 beyond. Rather than continue to try to develop features within its own proprietary, closed  
10 network, basically keeping all of its users to itself...Facebook intuitively gets the concepts that  
11 are so brilliantly discussed in Wikinomics (which are so non-intuitive to old school business  
12 types), and has chosen to open up its network for all to participate in...Application developers  
13 can now have access to core Facebook features, such as user profiles and user connections, and  
14 even publishing to the News Feed, all with the control and permission of Facebook users...When  
15 Facebook has 100 million users, in the not too distant future, having the ability to develop an App  
16 in their system will almost be like being able to get a link on Google’s own home page.” (See  
17 <http://www.paulallen.net/prediction-facebook-will-be-the-largest-social-network-in-the-world/>.)

18 50. To Developers, Facebook Platform represented not just an entirely new operating  
19 system, but an economy that could reorganize the entire Internet (potentially replacing Google as  
20 the dominant form of organizing the world wide web). The sentiment among Developers, as  
21 widely held throughout the industry and reported by popular sites like TechCrunch and the Wall  
22 Street Journal, was that if you aren’t building for Facebook Platform, you will be left behind  
23 ([http://techcrunch.com/2007/05/24/facebook-launches-facebook-platform-they-are-the-anti-](http://techcrunch.com/2007/05/24/facebook-launches-facebook-platform-they-are-the-anti-myspace/)  
24 [myspace/](http://www.wsj.com/public/article/SB117971397890009177-wjdKPMjAqS_9ZZbwiRp_CoSqvWQ_20070620.html)) ([http://www.wsj.com/public/article/SB117971397890009177-](http://www.wsj.com/public/article/SB117971397890009177-wjdKPMjAqS_9ZZbwiRp_CoSqvWQ_20070620.html)  
25 [wjdKPMjAqS\\_9ZZbwiRp\\_CoSqvWQ\\_20070620.html](http://www.wsj.com/public/article/SB117971397890009177-wjdKPMjAqS_9ZZbwiRp_CoSqvWQ_20070620.html)).

26 51. Facebook and the Developers who were selected to participate in the private beta  
27 of Facebook Platform quickly set out to make Developers comfortable with this grandiose vision  
28

1 and create a level of comfort to entice them to participate in this entirely new industry. For  
2 instance, on May 29, 2007, just five days after Zuckerberg's announcement of Facebook  
3 Platform, Venture Beat, the popular tech blog, did a Q&A with iLike founder, Ali Partovi, who  
4 was also an early advisor and shareholder of Facebook. iLike was the first successful application  
5 on Facebook Platform and for quite some time was the largest music application on the Facebook  
6 Platform. iLike was purchased by MySpace in 2009.

7 Tell me about your experiences with Platform so far. You've been working on putting  
8 iLike on Facebook for several months now. Yet on the integration since Friday morning,  
9 there have been bugs and other issues on iLike's end. What's the status?

10 Partovi: So, first to give you the back-story on how we got involved. Over the past several  
11 months, we've pushed and pushed with Facebook asking for some sort of exclusive  
12 relationship. They repeatedly said they won't do an exclusive relationship but would  
13 rather create a level playing field where we could compete with other third parties. We  
14 then gave up a bit, and we were actually a bit late to the game learning about the platform  
15 in detail. But when we finally did get access, our President, Hadi Partovi (my twin  
16 brother) took very little time to decide this was a huge strategic priority. That was a month  
17 ago. We re-prioritized everything else, and started moving our people off other projects  
18 onto this. First two or three people, then a few more, and by the end it was a huge group of  
19 engineers pulling back-to-back all-nighters for a week-long sprint to the launch.

20 What made iLike think that Facebook Platform would be a big deal? What stood out about  
21 it?

22 Hadi has a strong background in the concept of platforms...at 24 he became the head of  
23 product management in the IE group at Microsoft, and was a key player in the browser  
24 wars. A month ago, even though the Facebook Platform wasn't fully fleshed out, he saw  
25 just from the early beginnings of it that this could redefine web development. What he  
26 said was, 'in the history of computing, there was the personal computer, there was  
27 Windows, there was the web, and now the Facebook Platform'. You can imagine that I  
28

1 and most our company was pretty skeptical. But he makes these calls so we followed him.  
2 As to what stood out, it's a combination of three things: (1) the technology itself –  
3 Facebook Platform, like any platform, offers the developer building blocks to build apps  
4 faster than they could if they were starting from scratch, and to tap into a rich source of  
5 data & capabilities that would never otherwise be available; (2) the potential for viral  
6 spread – due to the way the Facebook news feed works, an app can spread across the  
7 community entirely by viral spread, as friends get notified when one person adopts  
8 it...this essentially bypasses the idea of trying to make your app 'viral' as a standalone,  
9 because Facebook is itself naturally viral; (3) the rhetoric from the Facebook management  
10 team, starting from the CEO himself, made it clear that they have a long-term  
11 commitment to a level playing field. For example, they absolutely refused to give us any  
12 special advantage, insisting that the market needs to see a level playing field...we offered  
13 them ownership in our company, money, etc. – but they had no interest. Furthermore, they  
14 built and launched their own 'video' app, but left it to 'compete' on its own merits  
15 alongside other third-party apps rather than making it 'pre-installed' for all Facebook  
16 users.<sup>1</sup> So #1 and #2 made this something we had to jump on, and #3 made us comfortable  
17 with the long-term strategic implications. (See [http://venturebeat.com/2007/05/29/qa-](http://venturebeat.com/2007/05/29/qa-with-ilikes-ali-partovi-on-facebook/)  
18 [with-ilikes-ali-partovi-on-facebook/](http://venturebeat.com/2007/05/29/qa-with-ilikes-ali-partovi-on-facebook/).)

19 52. Partovi's comments immediately following Zuckerberg's announcement serve  
20 both to reflect the general sentiment held by Developers – that Facebook had made clear its long-  
21 term commitment to a level playing field and equal access to data for all Developers – and to  
22 show how Facebook's allies (Partovi was an early advisor and shareholder after all), were  
23 committed to helping Facebook grow its new operating system quickly and induce developers to  
24 participate with large investments of capital. After all, iLike saw massive growth in the two years  
25 following its decision to build on the Facebook Platform and was ultimately acquired by  
26 MySpace in 2009 in large part due to that growth.

1           53.     Three days after Partovi's Q&A with Venture Beat, on June 1, 2007 Facebook  
2 released its own statement further clarifying its intentions with Facebook Platform, entitled  
3 "Platform is Here".

4           "Last Friday, we promised more information, so here it is.... With this evolution of  
5           Facebook Platform, we've made it so that any developer can build the same applications  
6           that we can. And by that, we mean that they can integrate their application into  
7           Facebook—into the social graph—the same way that our applications like Photos and  
8           Notes are integrated." (See [https://www.facebook.com/notes/facebook/platform-is-](https://www.facebook.com/notes/facebook/platform-is-here/2437282130/)  
9           [here/2437282130/](https://www.facebook.com/notes/facebook/platform-is-here/2437282130/))

10          54.     Thus, Facebook promised that developers will be able to build applications in the  
11 same way that Facebook can by accessing the social graph.

12          55.     As recently as March 7, 2017, this official statement remained available on  
13 Facebook's official website.

14          56.     Throughout the summer of 2007 Facebook remained on the offensive about its  
15 long-term commitment to developers on Facebook Platform. Facebook held numerous  
16 Hackathons and Developer Meetups in various cities to introduce new developers to Facebook  
17 Platform, it launched a Developer Feed and Wiki on its website to educate the Developer  
18 community on the benefits of Facebook Platform and help them more seamlessly invest their  
19 capital and resources towards building applications on the Facebook Platform. Facebook also held  
20 contests with prizes for developers. Zuckerberg continued to emphasize the revolutionary impact  
21 Facebook Platform would have on the Internet as a whole during this time. For instance, on July  
22 17, 2007, Zuckerberg was interviewed by Time Magazine:

23           **Time:** the frenzy surrounding Facebook seems to have intensified quite dramatically over  
24 the past several months. What do you think is behind the company's newfound cachet?

25           **Zuckerberg:** I think the most recent surge, at least in the press, is around the launch of  
26 Facebook Platform. For the first time we're allowing developers who don't work at  
27 Facebook to develop applications just as if they were. That's a big deal because it means  
28



1 that all developers have a new way of doing business if they choose to take advantage of  
2 it. There are whole companies that are forming whose only product is a Facebook  
3 Platform application. That provides an opportunity for them, it provides an opportunity for  
4 people who want to make money by investing in those companies, and I think that's  
5 something that's pretty exciting to the business community." (See  
6 <http://content.time.com/time/business/article/0,8599,1644040,00.html>)

7 57. In these public statements to Time Magazine, Zuckerberg made at least four  
8 distinct promises: (1) Facebook would allow developers to build applications as if they were  
9 developers employed by Facebook; (2) Facebook would offer developers on Facebook Platform a  
10 new way of doing business; (3) Facebook would support an ecosystem where entire companies  
11 could be formed whose sole business activity was within the Facebook Platform ecosystem; (4)  
12 Facebook would support an ecosystem where investors could reasonably rely on Facebook to  
13 make money by investing in companies solely devoted to the Facebook Platform ecosystem.

14 58. Then on September 17, 2007, Facebook went even further by setting up a \$10  
15 million fund exclusively devoted to providing grants to developers to build on Facebook  
16 Platform. Facebook and its partners in the fund would not even take equity in the developer; they  
17 were offering free money to build applications on Facebook Platform with the only commitments  
18 being that the grantee use the money to build on Facebook Platform and that Facebook's partners  
19 would have the opportunity to invest first if they were interested in doing so. When asked why  
20 Facebook was forming this fund, it replied: "We are forming this fund to help grow the Facebook  
21 application ecosystem. By decreasing the barrier to start a company, we hope to entice an even  
22 larger group of people to become entrepreneurs and build a compelling business on Facebook  
23 Platform. We hope this is also a funding model that other venture capitalists will follow." (See  
24 <http://500hats.typepad.com/500blogs/2007/09/facebook-announ.html>.)

25 59. Facebook's conduct in providing free money to developers to build applications on  
26 Facebook Platform implies a specific promise that it will support developers' opportunity to  
27 "build a compelling business on Facebook Platform" and that it is committed long-term to the  
28

1 stability of Facebook Platform as an ecosystem that can support substantial investment and where  
2 investors who participate in that ecosystem can expect a level playing field upon which to  
3 generate a return on that investment.

4 60. Indeed, others were quick to follow Facebook's lead in making investors  
5 comfortable with supporting this new industry with large sums of capital. Numerous venture  
6 capital firms or funds were soon established that invested solely in Facebook applications. In  
7 September 2007, Wired Magazine reported the following: "And by turning itself into a platform  
8 for new applications, Facebook has launched a whole new branch of the software development  
9 industry, just like Bill Gates did with MS-DOS in the 1980s. By allowing developers to charge  
10 for their wares or collect the advertising revenue they generate, Zuckerberg set up a system for  
11 every programmer to get paid for their efforts. Now venture capitalists like Bay Partners are  
12 scrambling to fund almost anyone who has an idea for a Facebook application." (See  
13 [https://archive.wired.com/techbiz/startups/news/2007/09/ff\\_facebook?currentPage=all](https://archive.wired.com/techbiz/startups/news/2007/09/ff_facebook?currentPage=all).)

14 61. As a result of Facebook and its partners' tremendous efforts in inducing  
15 Developers to build applications on Facebook Platform and promising them access to the Graph  
16 on neutral and equal terms, Facebook Platform quickly became, in the words of AdWeek, "the  
17 most viral software distribution system ever". The overall traffic to Facebook increased by 33%  
18 within three weeks of the announcement. By December, the Facebook user base had grown from  
19 24 million at the time of the announcement to 58 million, a 141% increase. Where Facebook had  
20 been adding about 100,000 new users per day prior to Facebook Platform, it was now adding  
21 more than 250,000 users per day. (See [http://www.adweek.com/socialtimes/top-10-facebook-](http://www.adweek.com/socialtimes/top-10-facebook-stories-of-2007/211540)  
22 [stories-of-2007/211540](http://www.adweek.com/socialtimes/top-10-facebook-stories-of-2007/211540).)

23 62. While it touted Facebook Platform to Developers around the world, Facebook did  
24 not state or imply that access to Facebook Platform might later be rescinded or provided on an  
25 unequal basis. In fact, Facebook repeatedly promised that access would be provided on an equal  
26 basis relative to Facebook and other developers. Upon information and belief, during this time,  
27 Facebook in fact provided special, unequal access to the Graph to large companies who were

1 close partners of Facebook and made substantial unrelated advertising payments to Facebook to  
2 the systematic disadvantage of smaller companies. This fact was not made known to or  
3 reasonably discoverable by the Developer community at large, including 643, at the time  
4 preferential access was being given.

5 63. By the end of 2009, in large part due to Facebook Platform's success in inducing  
6 developers to make investments in this new ecosystem, Facebook's user growth had skyrocketed  
7 from 24 million active users at the time of the announcement of Facebook Platform in May 2007  
8 to over 350 million users in December 2009.

9 64. In late 2009, Facebook released a document "A Look Back on the App Economy  
10 of Facebook in 2009," in which it cited numerous success stories. For instance, Facebook app  
11 Playfish was acquired by Electronic Arts that year for no less than \$275 million. Watercooler, a  
12 leading fantasy sports application on the Facebook Platform, successfully raised \$5.5 million to  
13 fuel its growth. Weardrobe was acquired by Like.com for an undisclosed sum. The document,  
14 published by the Director of the Facebook Developer Network, ended: "We'd like to say thank  
15 you to the developers and entrepreneurs who make up the Facebook Platform ecosystem and  
16 congratulations on your accomplishments in 2009." (See  
17 [http://web.archive.org/web/20091223055629/http://developers.facebook.com/news.php?blog=1&](http://web.archive.org/web/20091223055629/http://developers.facebook.com/news.php?blog=1&story=351)  
18 [story=351.](http://web.archive.org/web/20091223055629/http://developers.facebook.com/news.php?blog=1&story=351))

19 **III. FACEBOOK LAUNCHED GRAPH API IN 2010 TO IMPROVE THE**  
20 **RELIABILITY OF DATA ACCESS FOR DEVELOPERS**

21 65. On or about April 21, 2010, Facebook announced the launch of Graph Application  
22 Programming Interface ("Graph API") as a key new component of Facebook Platform at its  
23 developer conference. Graph API streamlined and formalized the process whereby Developers,  
24 with the consent of Facebook users, could read data from and write data to the Graph.

25 66. Developers could only access Facebook content (referred to as "endpoints") with  
26 explicit permission from Facebook users. Examples of endpoints include a user's birthdate,  
27 favorite songs, or photos.

1           67.     Graph API also permitted access to endpoints regarding a user's friends, requiring  
2 both the friend's and the user's consent. One such endpoint was the set of photos that a user's  
3 friends had chosen to share with that user (the "Friends' Photos Endpoint"). A user's friends  
4 could control access to their photos and other endpoints by Developers even if they were not  
5 users of the Developer's application simply by clicking a check box on the main Facebook  
6 privacy page. The interface and process for users to manage these privacy settings is virtually  
7 identical today as it was during this time when Graph API was launched.

8           68.     By granting Developers access to the Friends' Photos Endpoint, Facebook allowed  
9 Developers to build applications that enabled a Facebook user to search the user's friends' photos  
10 via a Facebook Platform application, assuming the user's friend approved of such access. For  
11 avoidance of doubt, a user's friend had complete control over the permission settings and under  
12 no circumstance could a user view information in a third-party application that the user could not  
13 also view on Facebook itself.

14           69.     During the announcement of Graph API, Facebook touted several features of  
15 Graph API in order to increase its appeal to Developers such as 643.

16           70.     Specifically, at the F8 Conference 2010, Zuckerberg announced: "The open graph  
17 puts people at the center of the web – it means that the web can become a set of personally and  
18 meaningfully semantic connections between people...Three years ago at our first F8 we launched  
19 Facebook Platform, and together we all started an industry...We think what we have to show you  
20 today will be the most transformative thing we've ever done for the web...Use the open graph to  
21 make it so that people can have instantly social and personalized experiences everywhere they go.  
22 We're gonna be announcing a few pieces of new technology that make this possible – the first is  
23 the Graph API – makes it completely simple to read connections to Facebook's map of the  
24 graph...implemented on top of an open standard." (See  
25 <https://www.youtube.com/watch?v=4SOcRKINiSM>.)

26           71.     After Zuckerberg completed his keynote at F8 2010, Bret Taylor, a Facebook  
27 employee, further explained what Graph API meant for Developers: "With Graph API every  
28



1 object in Facebook has a unique ID, whether that object is a user profile, event, etc....you just  
2 need to download an object with a new ID or download a connection with a new name. So to  
3 download my friends you just need to download /btaylor /friends... And this applies for every  
4 single object in Facebook. So let's say Facebook launches a new feature next year. We're not  
5 gonna make you download a new SDK. You just need to download an object with a new ID or  
6 download a connection with a new name. All of the code you already wrote will continue to work  
7 perfectly. This is a really significant change for our new platform that I'm sure you can  
8 appreciate. For the first time via the search capability of the Graph API, we're giving developers  
9 the capability to search over all the public updates on Facebook. I think this is gonna lead to a  
10 bunch of cool new applications and I'm really excited to see where people go with this.... We've  
11 built our core of the Facebook Platform from the ground up with simplicity, stability, and the  
12 graph in mind. This graph that for the first time we're building together." (See  
13 <https://www.youtube.com/watch?v=4SOcRKINiSM>.)

14 72. Facebook's employee Bret Taylor thus promised that: (1) Developers could access  
15 Graph API objects in a simple manner ("you just need to download an object with a new ID"); (2)  
16 the accessible objects were ubiquitous ("this applies for every single object in Facebook"); (3) the  
17 access would be sustained and could be relied upon by developers ("All of the code you already  
18 wrote will continue to work perfectly... We're not gonna make you download a new SDK") (a  
19 Software Development Kit (or "SDK") is a set of software development tools that allows for the  
20 creation of applications for a particular operating system); (4) Developers could search over all  
21 objects for all public updates on Facebook; and (5) Facebook Platform guaranteed simplicity,  
22 stability and the ability to access and help build the Graph with Facebook.

23 73. The software industry uses a common and well-known convention of referring to  
24 software by version number (e.g., version 1.0, 2.0, etc.) to signify the existence of separate  
25 versions of software and to identify a particular version of the software. When Facebook  
26 announced the launch of Graph API, it did not refer to Graph API as having different versions  
27 and did not specify a term for the availability of Graph API. Facebook did not specify a version or  
28

1 term for Graph API in order to give Developers the impression that it would remain available to  
2 them to build a viable business, which takes many years to do in the software industry. Facebook  
3 thereby signified that Graph API's open, equal and neutral nature would not change. This  
4 representation was of course a deliberate decision on Facebook's part to continue to entice  
5 developers by conveying a sense of security around investing time, money and effort building  
6 applications on its revolutionary platform.

7         74. Facebook did not represent that it had reserved the right to terminate access to all  
8 of the social data in its Social Graph or that it could provide such access on unequal or anti-  
9 competitive terms. In fact, Facebook repeatedly represented that the unique value of its operating  
10 system relative to Microsoft or Apple was that it was inherently social and open. The idea that  
11 Facebook in the future would remove the "social" part of the Social Graph or the "open" part of  
12 the "Open Graph" could not have been reasonably anticipated by 643 as such a decision would  
13 and did hollow out the entire premise of Graph API. Quite to the contrary, Facebook repeatedly  
14 expressed its long-term commitment to Graph API and repeatedly expressed that it would provide  
15 data on a level playing field with equal terms to all Developers, relative both to one another and  
16 to Facebook itself.

17         75. This extension of the Facebook Platform ecosystem to further expand its  
18 reorganization potential for the entire Internet contributed even further to Facebook's meteoric  
19 rise and induced even more investors and Developers to participate in the economy Facebook had  
20 created. By way of example, on October 21, 2010, Facebook partnered with Kleiner Perkins  
21 Caufield & Byers, Zynga and Amazon to launch a \$250 million fund to invest in new apps on the  
22 Facebook Platform. By September 19, 2011, Facebook Platform had created over 182,000 jobs  
23 and \$12.19 billion in value to the U.S. economy. Facebook now boasted over 850 million users as  
24 of late 2011. Upon information and belief, Facebook would later conspire with Zynga and  
25 Amazon to ensure their continued access to Graph data after the data had been shut off to other  
26 companies like 643.

1           76.     On September 24, 2011, Facebook further extended its long-term commitment to  
2 Facebook Platform by expanding Open Graph to accelerate its reorganization of the disparate  
3 content on the Internet. (See [http://mashable.com/2012/05/24/facebook-developer-platform-](http://mashable.com/2012/05/24/facebook-developer-platform-infographic/#fDCxuACag5qr)  
4 [infographic/#fDCxuACag5qr](http://mashable.com/2012/05/24/facebook-developer-platform-infographic/#fDCxuACag5qr).) In his keynote address at F8 2011 on September 24, 2011,  
5 Zuckerberg stated to a packed auditorium of developers: "The next era is defined by the apps and  
6 depth of engagement that is now possible now that this whole network has been established... In  
7 2007 in our very first F8 I introduced the concept of the social graph, all of the relationships  
8 between people in the world. Last year we introduced the concept of the open graph as not only  
9 the map of all the relationships but all of the connections in the world.... This year, we're taking  
10 the next step: we're going to make it so that you can connect to anything you want in any way  
11 you want.... Sometimes I think about what we're doing with the open graph is helping to define a  
12 brand new language for how people connect...every year we take the next step and make some  
13 new social apps possible. Open graph enables apps that focus primarily on two types of things:  
14 the first is filling out your timeline, and the second is helping you discover new things through  
15 your friends."

16           77.     Facebook thus made at least four distinct representations of fact in this September  
17 24, 2011 announcement: (1) Facebook has a long-term commitment to the Facebook Platform and  
18 ensuring a fair playing field for developers and has had such a commitment for over four years  
19 now; (2) Facebook is committed to extending the Facebook Platform to provide developers with  
20 more ways to innovate and build businesses; (3) in keeping with this long term commitment,  
21 Facebook will continue to help make new kinds of social apps possible; and (4) Facebook is in  
22 particular focused on helping you discover new things through your friends and Facebook  
23 Platform will enable developers seeking to do so.

24           78.     Facebook stated that the extension of the Graph API at F8 2011 was simply the  
25 next step in Facebook's long-term commitment to serve as a platform for other developers, a  
26 commitment that every statement and action it took since May 2007 (a period of well over 4  
27 years) reaffirmed without a shadow of a doubt. The extension of the Facebook Platform continued  
28

1 to accelerate the massive economy Facebook had built. By January 2012, Facebook Platform had  
2 created 232,000 jobs in the EU alone, amounting to \$15.3 billion of value to the European  
3 economy. By February 2012, 250 million people were playing games on Facebook Platform each  
4 day (that is 12 times more people than the average viewership of American Idol, the highest-rated  
5 TV show in the history of television). By April 2012, 7 of the 10 highest grossing apps in the  
6 Apple App Store were built on Facebook Platform. (See  
7 <http://mashable.com/2012/05/24/facebook-developer-platform-infographic/#fDCxuACag5qr>.) It  
8 should be noted, in large part due to its long-term commitment to Facebook Platform, Facebook  
9 exceeded 1 billion users in 2012.

10 **IV. THE FTC ORDERED FACEBOOK NOT TO MISREPRESENT THE MANNER**  
11 **IN WHICH FACEBOOK COLLECTS, STORES OR TRANSMITS USER DATA**

12 79. On or about July 27, 2012, the United States Federal Trade Commission ("FTC")  
13 entered a Decision and Order (the "FTC Order") against Facebook.

14 80. The FTC Order entered following a consent agreement between FTC and  
15 Facebook.

16 81. The FTC noted in the FTC Order that the FTC had reason to believe Facebook has  
17 violated the Federal Trade Commission Act.

18 82. The FTC Order provided, among other things, that Facebook and its  
19 representatives "shall not misrepresent in any manner, expressly or by implication, the extent to  
20 which it maintains the privacy or security of covered information. . . ."

21 83. The FTC Order defined "covered information" to include an individual  
22 consumer's photos, among other things.

23 84. The FTC Order also provided that Facebook and its representatives "shall not  
24 misrepresent in any manner, expressly or by implication...the extent to which [Facebook] makes  
25 or has made covered information accessible to third parties."



1 **V. IN 2012, ZUCKERBERG DECIDED TO REMOVE ACCESS TO FACEBOOK'S**  
2 **DATA TO ALL POTENTIALLY COMPETITIVE APPLICATIONS UNLESS**  
3 **THEY PROVIDED SUBSTANTIAL FINANCIAL OR OTHER CONSIDERATION**  
4 **TO JUSTIFY CONTINUED ACCESS.**

5 85. Upon information and belief, from 2011 through 2015, Zuckerberg held  
6 discussions and meetings with Defendants Cox, Olivan, Lessin, Vernal and Sukhar (the  
7 "Conspiring Facebook Executives") to design and implement the alleged bait and switch scheme.  
8 Upon information and belief, beginning in 2011 and 2012, Zuckerberg held discussions with  
9 Defendants Cox, Olivan, and Lessin (in addition to other Facebook executives like Sheryl  
10 Sandberg, Daniel Rose, and Andrew Bosworth) where Zuckerberg communicated his decision to  
11 shut down access to Graph API data to applications that were competitive with current Facebook  
12 products and with products Facebook may choose to launch in the future, even if Facebook had  
13 not begun working on such products. Upon information and belief, this plan to weaponize and  
14 restrict Facebook Platform was communicated to, discussed with and ratified by the Facebook  
15 Board of Directors in the summer of 2012. Upon information and belief, Zuckerberg then brought  
16 Vernal directly into the discussions in late 2012 in order to oversee and implement the bait and  
17 switch plan. Upon information and belief, Vernal planned a public announcement of this decision  
18 at the end of 2012 but Zuckerberg prohibited the announcement. Upon information and belief,  
19 Facebook instead made in January 2013 a partial disclosure of the decision that suppressed  
20 material facts at Zuckerberg's request under an announcement regarding a vaguely defined  
21 "Reciprocity Policy"  
22 (<https://web.archive.org/web/20130125212302/https://developers.facebook.com/blog/post/2013/01/25/clarifying-our-platform-policies/> and  
23 <https://web.archive.org/web/20130216042126/https://developers.facebook.com/policy/>). Upon  
24 information and belief, from that time on, the Conspiring Facebook Executives actively concealed  
25 material facts, made only partial disclosures, and made materially false statements regarding the  
26 decisions Zuckerberg had in fact made in late 2012 concerning the Reciprocity Policy. Upon  
27 information and belief, the Conspiring Facebook Executives began enforcing all aspects of  
28

1 Zuckerberg's decision notwithstanding that Facebook only announced certain aspects of the  
2 decision and maliciously withheld others. Upon information and belief, the Defendants' conduct  
3 in this regard was undertaken in concert with other large companies who would benefit from such  
4 changes. Upon information and belief, in mid-2013, Zuckerberg, Vernal and Facebook Director  
5 of Engineering Doug Purdy, aggressively sought to make Defendant Sukhar the front man  
6 externally for this bait and switch scheme, which Sukhar resisted until late 2013 because he knew  
7 the conduct was wrongful and malicious. However, in late 2013, Sukhar conceded and from that  
8 time on actively ratified, acquiesced in and advanced key components necessary to the  
9 implementation of the fraudulent and anti-competitive scheme in 2014 and 2015.

10 86. Upon information and belief, during these discussions and meetings, Zuckerberg  
11 communicated to the Conspiring Facebook Executives his decision to require that any company  
12 that wishes to continue to access the Graph API data that Facebook previously promised on  
13 neutral and equal terms would be required to provide substantial financial consideration to  
14 Facebook, and even then, only companies that were not directly competitive would be permitted  
15 to do so.

16 87. Upon information and belief, during these discussions and meetings, Zuckerberg  
17 and the Conspiring Facebook Executives discussed large companies with which to conspire  
18 around this effort at the expense of other companies that represented competitive threats to  
19 Facebook. Further, upon information and belief, Zuckerberg sought the guidance and active  
20 assistance of the Conspiring Facebook Executives around the companies with which Facebook  
21 would conspire and how to develop a plan to do so.

22 88. Upon information and belief, during these discussions and meetings, Zuckerberg  
23 sought the guidance and active assistance of the Conspiring Facebook Executives to execute key  
24 components of this bait-and-switch scheme. Upon information and belief, Zuckerberg tasked  
25 Vernal with implementing an engineering plan to remove data access to tens of thousands of  
26 potentially competitive applications. Upon information and belief, Zuckerberg tasked Lessin, Cox  
27 and Olivan with engaging other departments at Facebook around executing this plan to show  
28

1 which categories of applications were competitive with Facebook's current or future products in  
2 an effort to expand the extent to which Facebook could consider a broad range of applications to  
3 be directly competitive with Facebook and Facebook's close partners. Upon information and  
4 belief, Zuckerberg tasked Sukhar and Vernal with developing a plan to communicate and mask  
5 this fraudulent scheme to Facebook employees and, eventually, Developers and the public. Upon  
6 information and belief, the Conspiring Facebook Executives then tasked various other Facebook  
7 employees to accomplish a wide range of tasks, including: to analyze the revenue impact of this  
8 bait-and-switch scheme; to audit and categorize applications so as to determine which ones to  
9 restrict data access and which ones to permit special access; to proactively reach out to certain  
10 companies to provide advance notice and set financial terms to conspire around restricting this  
11 data access to the benefit of both Facebook and these large partner companies and at the expense  
12 of all other market participants; and to engage in a wide range of other tasks related to executing  
13 this scheme and avoiding any public relations or legal ramifications for it.

14 89. Upon information and belief, in mid-to-late 2012, the Conspiring Facebook  
15 Executives began communicating to various Facebook employees that data access would be  
16 severely restricted to many companies that built applications related to contacts and calendar  
17 management, messaging, photo sharing, video sharing and streaming, online dating, lifestyle,  
18 games, news, books, fitness and various utility applications. Upon information and belief, the  
19 companies that were exempted from these data restrictions were those that provided substantial  
20 financial consideration to Facebook or had held discussions with Facebook around long-term  
21 strategic partnerships that provided significant value to Facebook in other areas of its business.

22 90. Upon information and belief, the Conspiring Facebook Executives actively  
23 encouraged and even required other Facebook employees to expand the definition of a  
24 competitive application in order to restrict data access to as many software companies as possible.  
25 Upon information and belief, the Conspiring Facebook Executives even encouraged Facebook  
26 employees, including their direct subordinates, to take action against certain direct competitors in  
27 advance of Facebook's notice to Developers restricting Graph API data access. Upon information  
28

1 and belief, the Conspiring Facebook Executives provided notice to Developers on different  
2 timeframes as part of a strategy to mitigate negative legal or public relations impacts.

3 91. Upon information and belief, the primary or exclusive criterion the Conspiring  
4 Facebook Executives used when deciding which applications or categories of applications to shut  
5 down was the competitive nature of such applications relative to current or future products from  
6 Facebook and close partners with which Facebook combined and conspired to oligopolize various  
7 markets in exchange for unrelated cash or in-kind consideration.

8 **VI. IN DECEMBER 2012, PLAINTIFF 643 ENTERED INTO AN AGREEMENT TO**  
9 **DEVELOP ON FACEBOOK PLATFORM NOT KNOWING THAT**  
10 **ZUCKERBERG HAD ALREADY DECIDED TO RESTRICT ACCESS TO THE**  
11 **DATA UPON WHICH 643 RELIED.**

12 92. 643 was an image pattern recognition and photo analysis company founded in  
13 December 2012. 643 developed a unique automated image classification capability that could  
14 automatically sort photos based on certain criteria. 643 had developed technology that could be  
15 applied to categorize photos based on the presence of certain logos, brands, individuals, or  
16 environments (e.g. indoors, ocean, beach, forest, etc.) without the need for a human to review the  
17 photos. For instance, 643's technology could be applied to find all the photos that contain New  
18 York Yankees logos. 643's technology required access to a large number of photos in order to  
19 train the algorithms to properly identify and sort images. 643 determined that Facebook Platform  
20 was the only repository of photos that met the criteria 643 required in order to be able to develop  
21 its technology and build a viable business. In reliance upon numerous public representations  
22 made by Zuckerberg and Facebook from 2007 through 2012 regarding Platform being a level  
23 competitive playing field, 643 determined it would be reasonable to build its business on  
24 Facebook Platform and obtained commitments in excess of \$200,000 in seed capital to build a  
25 business on Facebook Platform. 643's decision was based in significant part on Facebook's  
26 representations that any friends of Facebook users who entered into contract with 643 would  
27 become qualified leads with a strong likelihood of becoming 643's customers as well. Facebook's  
28 representations gave 643 a reasonable objective belief that it was highly probable that certain of



1 Facebook's users (those who were friends with 643's users) would generate economic benefit for  
2 643 in the future.

3 93. On December 11, 2012, 643 entered into Facebook's Statement of Rights and  
4 Responsibilities ("SRR" or "Agreement"). The SRR is the "terms of service that governs  
5 [Facebook's] relationship with users and others who interact with Facebook. By using or  
6 accessing Facebook, [643] agree[d] to this Statement..." (FB\_0000006, FB\_0000017). Further,  
7 since 643 had "a principal place of business in the US or Canada, this Statement is an agreement  
8 between [643] and Facebook, Inc." (FB\_0000015, FB\_0000025).

9 94. The primary consideration offered by Facebook is described as follows in the  
10 Agreement: "We give you all rights necessary to use the code, APIs, data, and tools you receive  
11 from us." (FB\_0000010, FB\_0000021). In exchange, 643 gave Facebook various rights and other  
12 forms of valuable consideration, including, for instance, the right to issue "a press release  
13 describing [Facebook's] relationship with [643]," the "right to analyze [643's] application,  
14 content, and data for any purpose, including commercial" purposes like targeting advertisements.  
15 (FB\_0000010, FB\_0000021). In other words, 643 gave Facebook the right to leverage the user  
16 engagement from 643's App to increase Facebook's advertising revenues.

17 95. In consideration of the rights to access Facebook's data, 643 also committed to a  
18 wide range of obligations around which it incurred substantial cost, such as ensuring that 643  
19 would "provide customer support for its application," "make it easy for users to contact" 643 or  
20 "remove or disconnect" 643's App (FB\_0000010, FB\_0000021). A small sample of the  
21 additional requirements Facebook placed on 643, many of which required incurring costs, are  
22 listed below:

- 23 a. You will not collect users' content or information, or otherwise access Facebook,  
24 using automated means (such as harvesting bots, robots, spiders, or scrapers)  
without our prior permission.
- 25 b. You will not engage in unlawful multi-level marketing, such as a pyramid scheme,  
26 on Facebook.
- 27 c. You will not upload viruses or other malicious code.

- d. You will not solicit login information or access an account belonging to someone else.
- e. You will not bully, intimidate, or harass any user.
- f. You will not post content that: is hate speech, threatening, or pornographic; incites violence; or contains nudity or graphic or gratuitous violence.
- g. You will not develop or operate a third-party application containing alcohol-related, dating or other mature content (including advertisements) without appropriate age-based restrictions.
- h. You will follow our Promotions Guidelines and all applicable laws if you publicize or offer any contest, giveaway, or sweepstakes ("promotion") on Facebook.
- i. You will not use Facebook to do anything unlawful, misleading, malicious, or discriminatory.
- j. You will not do anything that could disable, overburden, or impair the proper working or appearance of Facebook, such as a denial of service attack or interference with page rendering or other Facebook functionality.
- k. You will not facilitate or encourage any violations of this Statement or our policies.
- l. You will only request data you need to operate your application.
- m. You will have a privacy policy that tells users what user data you are going to use and how you will use, display, share, or transfer that data and you will include your privacy policy URL in the Developer Application.
- n. You will not use, display, share, or transfer a user's data in a manner inconsistent with your privacy policy.
- o. You will delete all data you receive from us concerning a user if the user asks you to do so, and will provide a mechanism for users to make such a request.
- p. You will not include data you receive from us concerning a user in any advertising creative.
- q. You will not directly or indirectly transfer any data you receive from us to (or use such data in connection with) any ad network, ad exchange, data broker, or other advertising related toolset, even if a user consents to that transfer or use.
- r. You will not sell user data. If you are acquired by or merge with a third party, you can continue to use user data within your application, but you cannot transfer user data outside of your application. (FB-0000007, FB\_0000010, FB\_0000018, FB\_0000020-FB\_0000021)

96. 643 was further required to commit to all obligations under the Facebook Platform Policies, Advertising Policies and Facebook Developer Payment Terms, all of which were incorporated by reference into the Agreement. These additional commitments included, for instance, requirements around implementing policies, tools and safeguards to ensure that “a user’s friends’ data can only be used in the context of the user’s experience on your application” and to ensure 643 did not “directly or indirectly transfer any data” to “any ad network, data broker or other advertising toolset...even if the user consents to such transfer or use.” (FB\_0000028). Each of these conditions required writing software that costs time and money.

97. The terms of the Agreement between 643 and Facebook required that the two parties share and maintain highly confidential, private and sensitive information of consumers, including personally identifiable information. This confidential and sensitive data includes the name, phone device ID, email address, private profile information, data uploaded to the Facebook site like photos and videos, location. Further, under the Agreement, 643 was required to share with Facebook its confidential and proprietary source code, including the inner workings and unique intellectual property behind its technology at any time upon Facebook's request. Facebook had a duty to disclose material facts affecting its ability to perform under the Agreement, including to continue to provide rights to the data it had been sending to 643 given the Agreement between the parties. Facebook further had a duty to disclose material facts to 643 in light of the confidential information shared between the parties.

98. At all times, 643 performed all its obligations under the Agreement and abided by all Facebook policies, terms and conditions. At no time did Facebook ever notify 643 that it believed 643 had violated any term of its Agreement with Facebook or any policies, including those related to user privacy, user trust or user control of data.

99. 643 further agreed that Facebook could “create applications that offer similar features and services to, or otherwise compete with, [643’s] application”; that Facebook Platform may not always be free to use; and that Facebook could limit access to data or impose additional data-throttling restrictions if 643’s user base increased substantially (FB 0000010, FB 0000021).

1 After careful review of the Agreement, 643 reasonably concluded that these requirements meant  
2 that 643 in the future may be charged a fee to access data, which would be charged consistently  
3 across all other companies, and that the amount of data 643 could access at any time may be rate-  
4 limited to assist Facebook in managing its costs in maintaining the API. Rate-limiting is common  
5 across most software APIs to ensure that an API user can only access a certain amount of data  
6 over a specified period of time. This assists the API provider, in this case Facebook, to manage  
7 costs associated with maintaining the API. Further, 643 understood Facebook to mean that  
8 Facebook could compete with 643 on a level playing field where the consumer decides which  
9 products succeed in the market. However, upon information and belief, Zuckerberg and the  
10 Conspiring Facebook Executives took active, malicious, fraudulent and oppressive measures to  
11 ensure that consumers had less choice and control over the products available to them, ensuring  
12 that Facebook and those Developers who agreed to provide Facebook with cash or in-kind  
13 payments win the market by not having to compete with applications from other Developers.

14 100. Nowhere in the Agreement did Facebook state that access to data could be  
15 provided on an unequal basis or that Facebook reserved its rights to provide data on an unequal,  
16 privileged or arbitrary basis. Nowhere in the Agreement did Facebook state that it reserved its  
17 rights to remove entirely the social data in the Social Graph, the core data that defined Facebook  
18 Platform for over seven years and incentivized Developers to build applications on Facebook  
19 Platform instead of other operating systems like Windows or Macintosh. Facebook's conduct for  
20 seven years affirmed the reasonableness of 643's interpretation of its Agreement with Facebook.  
21 As the Agreement was drafted entirely by Facebook, if Facebook had intended by its terms to  
22 convey that it could provide access to data on unequal, privileged or arbitrary terms, or that it  
23 could shut down entirely access to entire categories of social data representing the most  
24 commonly used data under Graph API, it could have done so with much clearer language.

25 101. As of March 1, 2017, Facebook's Platform Policies still include obligations around  
26 social data, stating that Developers can "Only use friend data (including friends list) in the  
27 person's experience in your app." (See [developers.facebook.com/policy](https://developers.facebook.com/policy), Section 3.3). This  
28



1 demonstrates that some Developers who have entered into special agreements with Facebook still  
2 have access to this social data notwithstanding that the data has been restricted to all other  
3 Developers. Upon information and belief, many Developers with close relationships to Facebook  
4 and who paid Facebook substantial sums of cash or other financial consideration continue to  
5 access this data in some form, notwithstanding that it has been restricted to all other software  
6 companies.

7       102. Before and during the time 643 was considering investing in Facebook Platform,  
8 Facebook repeatedly stated that it intended to have an open governance process around its terms  
9 of use and that Developers would participate in the evolution of their agreements with Facebook.  
10 For instance, on April 22, 2009, Zuckerberg released a video to Developers and users in which he  
11 stated that a community as “large and engaged [as Facebook] needs a more open process, and a  
12 voice in governance. That’s why a month ago, we announced a more transparent and democratic  
13 approach to governing the Facebook site. Since that time, users and experts from around the  
14 world have read and offered comments on the documents that we’ve proposed, the Facebook  
15 Principles and the Statement of Rights and Responsibilities. We’ve read all of these comments  
16 and we’ve created new drafts of the documents.... Now we want you to vote and share with us  
17 which documents you think should govern Facebook. I hope you take a minute or two to vote and  
18 also to fan the Facebook Site Governance Page.”  
19 ([https://www.facebook.com/fbsitegovernance/videos/vb.69178204322/718903095373/?type=2&t](https://www.facebook.com/fbsitegovernance/videos/vb.69178204322/718903095373/?type=2&th)  
20 heater). These various representations led 643 reasonably to conclude that Facebook intended to  
21 be a good actor in enforcing its Agreement with 643.

22       103. In entering into the Agreement, 643 reasonably relied on the various official  
23 statements, announcements, policy documents and verbal representations of Facebook employees,  
24 and in particular of Zuckerberg, and the Facebook Platform FAQ document Facebook had  
25 produced, as well as the experience of thousands of other Developers who had successfully built  
26 applications on Facebook Platform. 643 could not have known that Zuckerberg had already  
27 decided to restrict access to the data necessary for 643’s technology to work, as Facebook had  
28

1 exclusive access to this information and had taken measures to actively conceal this fact from  
2 643, other Developers and the public.

3 104. 643 conducted user research to determine how people would like their photos  
4 sorted. The user research overwhelmingly concluded that users between the ages of 25 and 45  
5 wanted to more easily find photos of their friends in a summer setting. Consequently, 643 decided  
6 to test its technology by building an application called Pikinis ("the App"). The App was  
7 available for download on any iOS-compatible device, including the iPhone and iPad. The App  
8 enabled Facebook users to reduce time spent searching through their photos by automatically  
9 finding summer photos that their friends have shared with them through Facebook's network,  
10 assuming their friends permitted 643 to access the photos. This App enabled 643 to more rapidly  
11 access large numbers of photos in order to train its technology and develop new and more  
12 powerful applications in order to convert prospective customers. 643 also had plans to develop an  
13 Android version of the App in order to convert prospective customers who owned Android  
14 phones.

15 105. The App required use of Facebook's Graph API. The App used 643's image  
16 recognition technology to search through shared photos and identify the ones in a summer setting,  
17 which included friends at the beach or pool, on a boat, in their bathing suits and the like. 643 had  
18 intended to use its technology to build a number of other applications unrelated to the subject  
19 matter of the App.

20 106. The App could only access and display photos that Facebook users had chosen to  
21 share based on their Facebook privacy settings, even if the Facebook user had never installed  
22 643's App. In other words, the only photos a user could see in the App were ones the user could  
23 also see on Facebook. 643's App had no photos that were not also displayed on Facebook.com.  
24 All the photos and all content in the App was subject to and passed Facebook's own policy,  
25 privacy and content reviews. It was not possible for the App to display content that was not  
26 subject to and had not passed Facebook's own policy, privacy and content reviews. Therefore, it  
27 was not possible for the App to contain objectionable content as all of the content was subject to  
28

1 and controlled by Facebook's own policies, including its manual and automated controls. If a  
2 photo were to be removed by Facebook for containing objectionable content, it would have  
3 simultaneously and automatically been removed from the App. 643 made this clear to customers  
4 and prospective customers of the App.

5 107. 643 conducted initial user research that indicated considerable consumer demand  
6 for the App, among both men and women. Facebook never expressed any disapproval of the App  
7 as the only content it accessed was content already available on Facebook. The App abided by the  
8 Agreement, including all of Facebook's privacy requirements, Terms and Conditions and  
9 Developer Policies. The App built in advanced privacy checks at significant engineering expense.  
10 The App contained no malicious or inappropriate content, and any Facebook user could remove  
11 the App's access to their photos at any time from the main Facebook privacy page.

12 108. 643 made plans to market and promote the App to attract users. 643 engaged at  
13 least 20 contractors at significant cost to assist in building a list of prospective customers, mostly  
14 students on college campuses. These contractors used publicly available information and/or direct  
15 outreach to develop a list of prospective customers with verified unique email addresses in excess  
16 of 100,000 prospective customers (approximately 49,000 fraternity members, 23,000 sorority  
17 members, and 35,000 female and male college athletes). Further, 643 sent emails to some but not  
18 all of these prospective customers. The emails invited these prospective customers to go onto the  
19 App's website and sign up to receive a notification once the App launched and was available for  
20 them to purchase. These emails were sent in batches that had an average conversion rate of 6%,  
21 significantly higher than the industry norm (the lowest conversion rate was approximately 3% and  
22 the highest was approximately 13%). Approximately 6,000 people opted-in to receive a  
23 notification from 643 when the App was available for them to purchase. In other words, 6,000  
24 people took the time to go to the App's website, input their email address and request that they be  
25 notified when the App launched. These individuals who signed up to receive a notice when they  
26 could purchase the App were qualified prospective customers who had expressed intent to  
27 purchase 643's App and had an existing relationship with 643 by signing up to the App's website

1 and becoming subject to the website's terms and conditions. Many of these qualified prospective  
2 customers were never able to enter into contract with 643 as a direct result of Facebook's anti-  
3 competitive and fraudulent schemes. Further, at least 13,000 prospective customers never  
4 received an email from 643 as a direct result of Facebook's anti-competitive and fraudulent  
5 schemes. 643 acquired the contact information and made plans to contact these prospective  
6 customers at significant cost, but 643 was never able to contact these customers and enter into  
7 contract with them as a direct result of Facebook's conduct. 643 had a reasonable expectation of  
8 prospective economic advantage and incurred substantial cost in order to identify and engage the  
9 6,000 qualified prospective customers and the additional 13,000 prospective customers in 643's  
10 marketing plan.

11 109. Further, Facebook represented since 2007, and 643 relied on Facebook's  
12 representations since that time, that certain Facebook users were prospective customers of any  
13 app built on Platform. This is because a key purpose of Platform was to enable new apps to reach  
14 Facebook's users with free, organic distribution through the newsfeed APIs and friends list APIs.  
15 Facebook represented for years that this would enable companies like 643 to much more rapidly  
16 enter into contracts and secure purchases from new customers since any friend of any existing  
17 App user could enter into contract with 643 with a single tap of a button and without 643 having  
18 to purchase advertisements. Given that 4,481 users entered into contract with 643, all of the  
19 Facebook friends of these 4,481 customers were prospective customers of 643 who could enter  
20 into contract with 643 with a single tap on a link sent by their friends. The 4,481 users who  
21 entered into contract with 643 had approximately 100,000 friends who were prospective  
22 customers of the App and whose friends had a relationship with 643 since they could see on  
23 Facebook that their friend had downloaded the App. 643 had a reasonable expectation of  
24 prospective economic advantage with these approximately 100,000 prospective customers.

25 110. Finally, 643 engaged in other marketing activities in preparation for a public  
26 launch. For instance, 643 purchased advertising from Facebook to test various ad campaigns in  
27 Facebook's new mobile advertising product. Facebook confirmed these purchases and ran 643's  
28



1 various ad campaigns on its public website. As a result of Facebook's anti-competitive scheme,  
2 643's App was prevented from participating in Facebook's advertising market since it had no  
3 functioning App to advertise. Upon information and belief, tens of thousands of other software  
4 companies were prevented from participating in Facebook's new mobile advertising market as a  
5 result of Facebook's anti-competitive scheme.

6 111. During a soft launch or trial period, 643 began selling the App for \$1.99 in Apple's  
7 App store. The basic version of the App allowed a user to run a certain number of searches per  
8 month. In addition, users could choose to pay for premium access, which allowed unlimited  
9 searching. 643 offered different pricing tiers for premium access, ranging from \$1.99 for a  
10 monthly subscription, to \$6.99 for 6 months, to \$9.99 for 12 months. The App's license  
11 agreement with users was tiered, so users could enter into contract with 643 at no cost or for  
12 \$1.99, but then elect to make additional purchases with a single tap. As a result, 643 reasonably  
13 expected that users with whom it had an existing contract would generate additional economic  
14 benefits to 643 beyond the terms of the then-current contract. In short, existing customers whose  
15 contract was set at a lower tier could at any time upgrade their contract tier to generate additional  
16 revenues for 643.

17 **VII. FROM THE MIDDLE OF 2012 UNTIL JANUARY 20, 2015, FACEBOOK**  
18 **ACTIVELY CONCEALED MATERIAL INFORMATION IT HAD AN**  
19 **OBLIGATION TO DISCLOSE WHILE CONTINUING TO MAKE FALSE**  
20 **STATEMENTS TO ENTICE 643 AND OTHER COMPANIES TO MAKE**  
21 **INVESTMENTS FACEBOOK KNEW TO BE IRREPERABLY DAMAGED.**

22 112. Upon information and belief, Zuckerberg and the Conspiring Facebook Executives  
23 requested that Facebook employees actively conceal the decision to restrict data access to  
24 competitors from internal employees, Developers and the public. Upon information and belief,  
25 the Conspiring Facebook Executives made various layers of management aware of this decision  
26 on a need-to-know basis periodically from late 2012 until late 2013 and, at all times, required  
27 such employees to actively conceal and/or make only partial disclosures of these material facts.

28 113. During this time, Facebook sent many dozens of communications directly to 643  
and hundreds of public communications intended for Developers that informed 643 of material

1 changes to Facebook Platform, many of which enticed 643 to make further investments of capital  
2 and resources in building on Facebook Platform. Not a single one of these communications  
3 referenced that Facebook was restricting access to data critical to the functioning of 643's App  
4 until January 20, 2015.

5 114. Further, during this time, Facebook held numerous meetups, conferences,  
6 hackathons and the like in which Facebook employees trained developers like 643 to access data  
7 the Conspiring Facebook Executives had already made the decision to restrict, encouraging and  
8 enticing Developers to invest time, money and resources in applications Facebook knew would  
9 not function based on decisions Zuckerberg had already made. Facebook made some of these  
10 training sessions available online for Developers like 643 who could not attend in person. 643  
11 relied on these training sessions and other statements in deciding and continuing to invest in its  
12 technology. Facebook continued to make the same representations around the benefits of  
13 Facebook Platform that it had made since 2007 and acted maliciously, intentionally and  
14 recklessly in continuing to make such statements. Further, from 2012 throughout 2014, Facebook  
15 issued numerous official statements and announcements that touted the success of Developers on  
16 Facebook Platform and further encouraged Developers to invest resources to build applications  
17 around data Zuckerberg had already decided to stop providing on fair, equal and neutral terms.

18 115. By way of example, on June 20, 2012, Cox gave a keynote speech at a conference  
19 in which he touted the success of a company that accessed friend data when stating: "And on  
20 Ticketmaster, rather than trying to remember exactly which night your friends were going to the  
21 concert...people can see that right there [on Ticketmaster] and then post back that they're going,  
22 which incidentally on average creates six extra dollars of spend on Ticketmaster."  
23 (<https://www.youtube.com/watch?v=R2kkaDMAJmA>). Upon information and belief, such  
24 statements by Cox were deliberately misleading, reckless and/or negligent in enticing Developers  
25 to build similar applications to achieve the kinds of benefits Cox attributed to Ticketmaster since  
26 Cox was in discussions with the Conspiring Facebook Executives to restrict this data.

1 116. By way of example, on October 20, 2012, Zuckerberg gave a speech in which he  
2 stated that Facebook had “over 300 or 400 million photos shared per day now, which is pretty  
3 crazy,” and implied that photo sharing was a huge monetization opportunity on Facebook.  
4 Zuckerberg omitted any mention that he had, upon information and belief, already decided to  
5 restrict this data to Developers. (<https://www.youtube.com/watch?v=5bJi7k-y1Lo>). Further, on  
6 January 15, 2013, Zuckerberg described searching for photos extensively and noted that  
7 Facebook had over 240 billion photos, the largest online repository, conveniently omitting that  
8 access to such photos would be restricted when enticing listeners around the opportunity of  
9 Facebook’s photo platform. (<https://www.youtube.com/watch?v=c-E3cfPHjeY>).

10 117. By way of example, on February 28, 2013, Facebook published a training video on  
11 its official Facebook Developer YouTube Channel  
12 (<https://www.youtube.com/user/FacebookDevelopers/about>), which has over 80,000 subscribers  
13 and 9.8 million views. The training session, “Getting started with Facebook SDK for iOS,” was  
14 hosted by Facebook Employee Eddie O’Neil. O’Neil teaches Developers how to build  
15 applications that access friend data by building one with the Developers in the audience. He  
16 shows how to make a request to “get back photo albums for five friends” and then towards the  
17 end shows the finished application, stating: “Here are all my friends...As I scroll here, you see  
18 that we haven’t brought all the friend pictures in yet, but as we bring them in we’ll stick them in  
19 that cache and hold on to them...when we come back to display this it’s instantaneous,” meaning  
20 that the App can show all the friends’ photos in a single request to make it super easy for  
21 Developers to use this data in their applications.

22 (<https://www.youtube.com/watch?v=t5lFzjDCYM4>). Upon information and belief, Zuckerberg  
23 had already decided to restrict access to friend data many months prior, and Mr. O’Neil was  
24 aware of this fact at the time he held this training session. As a result, Mr. O’Neil must have  
25 known at the time of this training session that he was teaching and encouraging Developers to  
26 invest capital and resources in building applications that would soon no longer function. Upon  
27 information and belief, the Conspiring Facebook Executives either instructed Mr. O’Neil directly  
28

1 or via their subordinates to actively conceal this information from Developers. 643 reasonably  
2 relied on this training video and others like it when making decisions to continue its investment in  
3 Facebook Platform.

4 118. By way of example, February 28, 2013, Facebook published another training video  
5 on its official Facebook Developer YouTube Channel. This training video was hosted by  
6 Facebook employee Simon Cross from the “World Hack Moscow” event. Cross tells Developers  
7 that Facebook Platform is not about building apps within Facebook.com but rather integrating  
8 Facebook data “into your app on every platform... We’re gonna spend time using our SDKs and  
9 APIs and integrating with Facebook at a code level.” Cross then walks Developers step by step  
10 through the process of accessing photos (“Now we can go in and get their picture”).

11 (<https://www.youtube.com/watch?v=heTPmGb6jdc>)

12 (<https://www.facebooksappeconomy.com/fullstory>, around 11:00). Upon information and belief,  
13 Zuckerberg had already decided to restrict access to friend data many months prior, and Mr.  
14 Cross was aware of this fact at the time he held this training session. As a result, Mr. Cross must  
15 have known at the time of this training session that he was teaching and encouraging Developers  
16 to invest capital and resources in building applications that would soon no longer function. Upon  
17 information and belief, the Conspiring Facebook Executives either instructed Mr. Cross directly  
18 or via their subordinates to actively conceal this information from Developers. 643 reasonably  
19 relied on this training video and others like it when making decisions to continue its investment in  
20 Facebook Platform.

21 119. By way of example, on June 20, 2013, Facebook published another training video  
22 hosted by Cross on its official Facebook Developer YouTube Channel, “Getting Started with  
23 Graph API”. The video included instructions stating that its purpose was to serve as “An  
24 introduction to Facebook’s Graph API which is the primary way to programmatically integrate  
25 with Facebook – publishing Open Graph stories, reading data about the current user – their  
26 details, their likes and interests and friends.” The video documentation further states that it will  
27 show Developers “how to build up deep graph queries which dive several layers deep into the



1 Graph.” The instructions also reference Developer documentation that continued to show  
2 Developers how to access data that the Conspiring Facebook Executives had already decided to  
3 restrict at: <https://developers.facebook.com/docs/graph-api/overview>. Notably, despite this  
4 reference by Facebook in June 2013 to this URL, the Wayback Machine has no record of this  
5 URL prior to 2015 after Facebook had made public its bait-and-switch schemes. In the video,  
6 Cross walks Developers from start to finish through the process of requesting friend data  
7 permissions, enticing Developers with statements like the following: “Graph API Explorer makes  
8 it really easy to get started...Places, Pages, Photos, Events and Newsfeed stories as well as Users  
9 are all considered objects” in the graph... We can go deeper and deeper into the graph. We can  
10 also request the picture connection on each returned User object. This would allow me to show  
11 the profile picture of each of my friends and to get all of this data in a single request.”  
12 (<https://www.youtube.com/watch?v=WteK95AppF4>). Developers watched this video 238,665  
13 times as of March 7, 2017. Upon information and belief, Zuckerberg had already decided to  
14 restrict access to friend data many months prior, and Mr. Cross was aware of this fact at the time  
15 he held this training session. As a result, Mr. Cross must have known at the time of this training  
16 session that he was teaching and encouraging Developers to invest capital and resources in  
17 building applications that would soon no longer function. Mr. Cross actively concealed and  
18 omitted material facts around restrictions on this data that Facebook already decided upon around  
19 one year prior. Upon information and belief, the Conspiring Facebook Executives either  
20 instructed Mr. Cross directly or via their subordinates to actively conceal this information from  
21 Developers. 643 reasonably relied on this training video and others like it when making decisions  
22 to continue its investment in Facebook Platform.

23         120. By way of example, on June 26, 2013, Facebook published a “Facebook Platform  
24 Case Study – Fab.com” on its official Facebook Developer YouTube Channel. Facebook and its  
25 partner Fab.com, an e-commerce app, touted the benefits of building on Facebook’s social  
26 operating system. A Fab.com employee stated that with Graph API they can “take everything  
27 they have in the catalog and narrowly target to a customer” to “see a product on Facebook and  
28

1 then share with their friends.” Facebook entices Developers to access social data in this video but  
2 conveniently omits all reference to the fact that the Conspiring Facebook Executives had decided  
3 many, many months ago to cease providing this data on fair and neutral terms.

4 (<https://www.youtube.com/watch?v=fEvq5BshZLo>).

5 121. By way of example, on September 18, 2013, Zuckerberg gave a speech during one  
6 of Facebook’s Developer Days to over 600 attendees from 17 countries. Facebook published the  
7 speech on its official Facebook Developer YouTube Channel. Zuckerberg states: “A lot of people  
8 think about Facebook Platform as a way to get distribution for apps that you’ve built. But we  
9 want to help you do even more than that. We want to make it simple to build great apps that have  
10 identity, friends and all the stuff that you want built in really easily.”

11 (<https://www.youtube.com/watch?v=rnnjQpyCJec>). Upon information and belief, Zuckerberg had  
12 decided approximately a year earlier to restrict access to friends data, identity data and “all the  
13 stuff that you want built in really easily.” Upon information and belief, Zuckerberg intentionally,  
14 recklessly and/or negligently made this statement and many others like it during this period of  
15 time to induce Developers to build applications that benefited Facebook with full knowledge that  
16 Developers’ investments in these applications would be irreparably damaged. Upon information  
17 and belief, Zuckerberg actively concealed his decision, made statements that plainly contradicted  
18 his decision, and omitted material information regarding his decision. 643 reasonably relied on  
19 Zuckerberg’s intentional, reckless and/or negligent false statements and had no other means of  
20 identifying this material information that the Conspiring Facebook Executives had been actively  
21 concealing even before 643 received its initial investment and began its operations.

22 122. During this time from 2012 throughout 2014, Facebook made many other policy  
23 updates and announcements to keep Developers informed of material information, including  
24 announcements on its website and in videos, such as the “Facebook Policy Update” by Facebook  
25 employee Alison Hendrix published on Facebook’s official YouTube Channel on August 27,  
26 2013. (<https://www.youtube.com/watch?v=NRziLMgbbOk>). Even as late as September 2014,  
27 Facebook continued to actively conceal material facts related to its photo sharing applications, as  
28

1 evinced in a video published on its official Facebook YouTube Channel, "Facebook Products for  
2 Photo Apps," which makes no mention of the dramatic restrictions on friend data and photos data  
3 that, upon information and belief, the Conspiring Facebook Executives had decided to implement  
4 more than two years prior. (<https://www.youtube.com/watch?v=R8M4oz1uA3o>).

5 123. Further, upon information and belief, throughout 2013 and 2014, the Conspiring  
6 Facebook Executives combined and conspired with other companies to selectively enforce  
7 Zuckerberg's decision to shut down access to Graph data against certain companies that built  
8 applications which the Conspiring Facebook Executives considered especially competitive with  
9 Facebook's current or future products. Upon information and belief, the Conspiring Facebook  
10 Executives agreed to wait to restrict access to certain other companies and encouraged these  
11 companies to continue investing in applications that the Conspiring Facebook Executives knew  
12 would not function in the future.

13 **VIII. FROM LATE 2013 TO EARLY 2014, ZUCKERBERG CONCOCTED A**  
14 **FABRICATED NARRATIVE TO MASK THE FRAUDULENT AND ANTI-**  
15 **COMPETITIVE SCHEMES IN WHICH HE AND THE OTHER DEFENDANTS**  
16 **CONSPIRED, SUPPRESSING MATERIAL INFORMATION AND SHARING**  
17 **ONLY PARTIAL INFORMATION, WHICH CAUSED FURTHER DAMAGE TO**  
18 **643.**

19 124. From late 2013 through early 2014, Zuckerberg worked with the Conspiring  
20 Facebook Executives and other companies to construct a fraudulent narrative around 'user trust'  
21 designed to mask the true reasons he decided to close access to Facebook's allegedly Open  
22 Graph. Upon information and belief, Zuckerberg personally decided to announce the closing of  
23 Graph API at F8 on April 30, 2014 and personally drafted his speech that actively, maliciously  
24 and fraudulently suppressed material information and revealed only partial information.

25 125. Upon information and belief, Zuckerberg personally decided to make user trust  
26 and control a theme at F8 and use those themes as pretenses for notifying companies that their  
27 access to data would be removed.

28 126. Upon information and belief, Zuckerberg personally decided to mask the true  
implications of his decision to restrict data access in his announcement and to suppress material

1 information that made it impossible for 643 and other Developers to understand the impact to  
2 their applications based on Zuckerberg's convoluted and contradictory announcement on April  
3 30, 2014. Upon information and belief, Sukhar, Vernal and others worked directly with  
4 Zuckerberg to suppress this material information in the announcement and to disseminate this  
5 fabricated narrative around user trust.

6 127. Upon information and belief, Zuckerberg tasked Sukhar and Vernal, among others,  
7 with propagating this fraudulent narrative internally to Facebook employees and externally to  
8 Developers and the public. Upon information and belief, Sukhar, Vernal and the other Conspiring  
9 Facebook Executives actively participated and conspired in the propagation of this fraudulent  
10 narrative.

11 128. Upon information and belief, issues like user trust, user control, privacy and the  
12 rare use of certain Graph API data – all of which Zuckerberg and other Facebook employees  
13 stated publicly as reasons for restricting data access and breaking tens of thousands of  
14 applications – were not in fact the actual reasons for restricting data access at the time Zuckerberg  
15 made and the Conspiring Facebook Executives participated in the decision. Upon information and  
16 belief, removing potential competitive threats and leveraging Platform to build Facebook's  
17 mobile advertising business were the primary or exclusive reasons for closing the Open Graph.  
18 Further, upon information and belief, decisions were not made unilaterally but in combination and  
19 concert with other large companies and exceptions were made for certain applications that are  
20 more susceptible to violating user trust or where user trust is in fact more important than in  
21 normal applications, such as applications that require payments. These exceptions demonstrate  
22 that user trust could not have been the actual reason for Facebook's decision to restrict Graph API  
23 data.

24 129. Upon information and belief, Zuckerberg and the Conspiring Facebook Executives  
25 directed their public relations team to feed reporters false information and in certain cases drafted  
26 reporters' stories themselves in order to disseminate this fabricated narrative among the public  
27 and Developer community.



130. In his announcement at F8 on April 30, 2014, Zuckerberg continued to conceal material facts, reveal only partial information, and deliberately mislead Developers and the public. Zuckerberg announced during his keynote: "This is gonna be a different kind of F8. In the past we've had F8 when we've had a big product announcement or new direction we were going in. This always meant a lot of different changes for your apps. Now we're focused on building a stable mobile platform. You're trying to build great mobile apps and businesses. And we want to bring this community together once per year to talk about all the different things we're doing to support you. We've heard from you that you want to use Facebook Platform to do 3 things. Help you build, grow and monetize your apps."

131. Thus, Zuckerberg reiterated the representation that Facebook had expressed to Developers unequivocally for over seven years now: that Facebook is committed over the long-term to helping them build, grow and monetize their apps.

132. Zuckerberg continued: “As I said we’re really focused on building a stable mobile platform. And one thing you may not know, is that all of our mobile apps are built on top of the very same platform and APIs that you guys use when you’re writing Facebook and all our engineers use the same tools and read all the same documentation that you do.... It’s really important for you and for all of our teams internally that we build stable and efficient infrastructure that you can rely on for the long term. So this has been a really big focus for us.... I want to start today by going through a few things we’re doing to make our platform even more stable and reliable for you to build, grow and monetize your apps. You want to be able to build something and know that it’s gonna be able to work for a while. So today for the first time we’re introducing a 2-year stability guarantee for all of our core API platforms...so even if we change these core APIs in the future, we’re guaranteeing that we’re going to keep supporting them as is for at least two years and maybe longer from the time we make that change. We’re still gonna experiment with new features and different things but we’re gonna mark them as beta so you know what’s gonna be part of this core stable platform. We’re also introducing API versioning. This is something we want to make sure that all the apps we wrote two years ago keep working.

1 This is something we wanted internally as we build on this platform, so now everything is gonna  
2 be versioned so you get to decide which version of the API you get to build against.”

3 133. Accordingly, Zuckerberg made at least four representations of fact: (1) Facebook  
4 continued to provide a level playing field to Developers, including the ability to use the same  
5 tools as Facebook employees to develop their applications; (2) Facebook continued to be  
6 committed to providing developer access “that you can rely on for the long term”; (3) Facebook  
7 promised that for all of its Core API endpoints it would guarantee their stability for at least two  
8 years going forward; (4) Facebook promised that it would let Developers choose which version of  
9 the API they would like to access as it introduces API versioning (“This is something we want to  
10 make sure that all the apps we wrote two years ago keep working. This is something we wanted  
11 internally as we build on this platform, so now everything is gonna be versioned so you get to  
12 decide which version of the API you get to build against.”).

13 134. Because Zuckerberg suppressed material facts in his announcement, many  
14 Developers initially applauded the 2-year stability guarantee and the ability to let Developers  
15 choose which version of the API to build against. One blogger applauded Facebook’s  
16 commitment to Developers in noting: “Facebook co-founder and CEO Mark Zuckerberg  
17 announced a two-year stability guarantee for all of the company’s core APIs and platforms. In  
18 fact, every API launched by Facebook will now be versioned, and Developers will be able to  
19 choose which version to build on.” (See [http://thenextweb.com/facebook/2014/04/30/facebook-](http://thenextweb.com/facebook/2014/04/30/facebook-announces-two-year-stability-guarantee-core-apis-sla-fix-major-bugs-within-48-hours/#gref)  
20 [announces-two-year-stability-guarantee-core-apis-sla-fix-major-bugs-within-48-hours/#gref](http://thenextweb.com/facebook/2014/04/30/facebook-announces-two-year-stability-guarantee-core-apis-sla-fix-major-bugs-within-48-hours/#gref).)  
21 TechCrunch and many other bloggers also reported on the API Guarantee, stating that Developers  
22 “will be able to build with confidence knowing that a Core API will be available for at least two  
23 years”. (See <http://techcrunch.com/2014/04/30/facebook-api-guarantee/>.)

24 135. Upon information and belief, Zuckerberg’s announcement contradicted active  
25 plans Facebook had been implementing for almost two years at Zuckerberg’s personal direction.  
26 At no time in his announcement did Zuckerberg mention that all of the Graph API Data would be  
27 removed, notwithstanding that he had made the decision to do so two years prior and had

1 personally overseen efforts by dozens of Facebook employees to implement the anti-competitive  
2 data restrictions.

3 136. Zuckerberg's statement that Developers, like Facebook employees, would be able  
4 to choose which API to use was simply false, and Zuckerberg knew this statement to be false at  
5 the time he made it. Upon information and belief, the Conspiring Facebook Executives had  
6 instructed their subordinates to implement a Core versus Extended API distinction and to version  
7 Graph API precisely to hide both the type of data they intended to restrict while also masking the  
8 true anti-competitive motivations for restricting it.

9 137. Zuckerberg's statement and Facebook's subsequent announcement that certain  
10 endpoints would be removed because they were rarely used was false, and the Conspiring  
11 Facebook Executives knew them to be false at the time they made them. Upon information and  
12 belief, certain of the endpoints in question were among the most used data in Graph API.

13 138. Zuckerberg's statement of a two-year stability guarantee was also false, and  
14 Zuckerberg knew it to be false at the time he made it. Upon information and belief, Zuckerberg  
15 and the Conspiring Facebook Executives had already decided that the social data in the Social  
16 Graph would only remain available for one year, not two. In other words, the 2-year stability  
17 guarantee turned out not to apply to the original Graph API and only to future APIs, a critical fact  
18 that Zuckerberg omitted in his announcement. Thus, Facebook pulled the rug out from under the  
19 Developer community and took full economic advantage of the ecosystem Developers had built,  
20 but Zuckerberg's keynote address still generated sound bites consistent with his previous  
21 representations that Facebook was maintaining a fair and level playing field for Developers.  
22 Zuckerberg was forced to make statements he knew at the time to be false precisely because it  
23 was obvious to everyone in the Developer community, especially Zuckerberg, that Facebook had  
24 for seven years been making clear and unambiguous promises to Developers that they could rely  
25 on Facebook Platform over the long term to provide a fair playing field that offers its data on  
26 equal and neutral terms.

1           139. Finally, Graph API explicitly removed endpoints that were of high value to  
2 Developers, like the ability to access photos, which for years Facebook had touted as one of its  
3 most valuable and highly trafficked features in order to entice developers to build applications.  
4 Facebook's only justification for removing access to photos at that time was that this endpoint  
5 was "rarely used", which contravenes every public statement Facebook had previously stated for  
6 over seven years in which Photos were consistently touted as its #1 application and driver of user  
7 engagement, an application that captured more photos and traffic than the next three photo sites  
8 on the Internet combined. Upon information and belief, these purportedly rarely used endpoints  
9 were in fact among the most widely used in Facebook Platform from at least 2012 through 2014.

10           140. Facebook's behavior of intentionally inducing Developers to build Facebook's  
11 business and then pulling the rug out from under them is a repeated pattern in Facebook's growth  
12 story, further demonstrating the malicious, oppressive and fraudulent nature of Facebook's  
13 conduct. The alleged conduct is not an isolated incident simply related to Graph API versioning  
14 and the thousands of developers, like 643, whose businesses were destroyed by this bait-and-  
15 switch tactic.

16           141. By way of example, Facebook executed another bait-and-switch tactic that caused  
17 thousands of Developers to go out of business and lose countless millions of dollars of enterprise  
18 value and capital investment. At the same time that Zuckerberg pulled the rug out from  
19 Developers using Graph API data at F8 2014, he also announced Facebook's acquisition and  
20 reliance on Parse as its new preferred tool for developers to build on Facebook Platform. Parse  
21 was a popular development platform for creating applications for Facebook, which handled much  
22 of the back-end functionality of such applications, allowing Developers to focus on features that  
23 matter to users. Zuckerberg stated in the same keynote where he announced the Graph API 2.0:  
24 "One of the things we're really excited about offering is Parse...We make it easy to focus on your  
25 app, the thing that will get you users and make you money...and Parse takes care of all the rest."  
26 A Facebook employee who followed Zuckerberg on stage went on to note that they had expanded  
27 the free tier to make it easier to grow on Parse, giving developers "unlimited requests, unlimited  
28



1 recipients, free analytics”. Zuckerberg then finished his thoughts on Parse by saying “We’re  
2 excited, we’re aligned with your app, and we hope that it does get huge.”

3 142. As a result of this and many other similar statements and actions by Facebook,  
4 hundreds of thousands of Developers began using Parse to build applications on Facebook  
5 Platform. Parse’s platform on Facebook states: “From startups to the Fortune 500, hundreds of  
6 thousands of developers trust us.”

7 143. Then, abruptly, on January 28, 2016, Facebook announced that Parse would be  
8 shutting down: “We have a difficult announcement to make. Beginning today we’re winding  
9 down the Parse service, and Parse will be fully retired after a year-long period ending on January  
10 28, 2017. We’re proud that we’ve been able to help so many of you build great mobile apps, but  
11 we need to focus our resources elsewhere.” The statement continues: “We understand that this  
12 won’t be an easy transition... We know that many of you have come to rely on Parse, and we are  
13 striving to make this transition as straightforward as possible.”

14 144. Many developers immediately commented on the devastating effect this would  
15 have on their app, business and investment in the Facebook Platform. One developer wrote:  
16 “@ParseIt Wow... Have spent months optimizing my app with your service to launch soon, and  
17 now this... Seems sudden... #utterlydisappointed.” Another: “@ParseIt it would be nice to hear a  
18 little bit more about the need to focus your resources elsewhere.” “@ParseIt my app had 2.5M  
19 users on your platform...this is sickening.”

20 145. The incident with Parse demonstrates a continued clear pattern on the part of  
21 Facebook to make clear and unambiguous representations to developers, to engage in conduct  
22 that induces developers to make substantial investments of time and money (all of which helped  
23 make Facebook one of the most valuable companies in the world today), and then pull the rug out  
24 from under these Developers to reap the financial benefits for itself.

25 146. Upon information and belief, Facebook is currently undertaking another bait-and-  
26 switch scheme, this time regarding the Facebook Messenger Platform. Upon information and  
27 belief, this scheme was designed by Zuckerberg in 2013, and Facebook is currently in the process  
28

1 of baiting developers into helping make Facebook's messaging service the most popular text  
2 messaging service in the world. Facebook made a partial disclosure of its intentions regarding  
3 Facebook Messenger Platform, but, upon information and belief, did not fully disclose its  
4 intentions regarding Facebook Messenger Platform. Had Facebook disclosed this information in  
5 2013 when Zuckerberg decided upon it, then 643 would not have continued to invest in building  
6 its business because it would have signaled to 643 that Facebook's Platform cannot be relied upon  
7 to build a viable business. This incident further demonstrates that the practice of baiting and  
8 switching Developers to build new lines of business for Facebook was not merely incidental or  
9 negligent, but is a key part of Zuckerberg's standard playbook when entering new markets.

10 **IX. FACEBOOK DID NOT NOTIFY 643 THAT IT WAS REMOVING 643'S ACCESS**  
11 **TO CRITICAL DATA NECESSARY FOR ITS APP TO FUNCTION UNTIL**  
12 **JANUARY 20, 2015, NOTWITHSTANDING THAT ZUCKERBERG HAD MADE**  
13 **THIS DECISION IN 2012 BEFORE 643 WAS ESTABLISHED**

14 147. On January 20, 2015, Facebook sent an email to 643 stating that 643 must  
15 "upgrade" the App to Graph API v. 2.0 by April 30, 2015. The email stated that Facebook would  
16 end third-party access to the full friends list and friends permissions, including the Friends'  
17 Photos Endpoint, on April 30, 2015. The App would not function at all without access to this  
18 Graph API Data, so Facebook's suggestion that 643 "upgrade" the App to Graph API v. 2.0 was  
19 not realistic or possible, and Facebook knew it was not realistic or possible.

20 148. By deciding to end access to the Graph API Data, Facebook made it impossible for  
21 643 to continue to operate the App, to abide by the license agreements and purchase terms entered  
22 into by 643 with its users, and for 643 to recoup any of its investment of capital, human labor,  
23 time, effort and energy. If 643 had known that Facebook had made the decision to remove access  
24 to the Graph API data, a decision Facebook made before 643 was even formed as a Delaware  
25 limited liability company, then 643 never would have invested capital and resources in building  
26 applications on Facebook Platform.

27 149. 643 was not able to execute a public launch of the App as a result of Zuckerberg's  
28 decision to restrict Graph API data access. However, during a soft launch or trial period, 643

1 entered into economic relationships with 4,481 users who downloaded the App in a very short  
2 period of time with virtually no marketing budget. A substantial portion of App users subscribed  
3 to premium access that began generating monthly revenues for 643.

4 150. Each one of the App users entered into a license agreement with 643.

5 151. Facebook requires Developers to enter into license agreements with users of  
6 applications for Facebook. These license agreements must, among other things, require that the  
7 users of these applications adhere to Facebook's terms of service.

8 152. Accordingly, Facebook knew, or should have known, about the existence of 643's  
9 license agreements with its users, since Facebook required 643 according to the terms of its  
10 Agreement to enter into such license agreements with 643's users. Further, upon information and  
11 belief, Facebook employees, Zuckerberg and the Conspiring Facebook Executives circulated  
12 spreadsheets of businesses who would be severely impacted by the anti-competitive data  
13 restrictions. Upon information and belief, 643's App appears in these spreadsheets circulated  
14 among Facebook executives, including Zuckerberg. Upon information and belief, the  
15 overwhelming majority of the businesses on these spreadsheets were good apps who did not  
16 violate user privacy or trust and to which Facebook had never sent a notice of policy violation.

17 153. Had Facebook refrained from restricting Graph API data, 643 could have quickly  
18 begun to generate hundreds of thousands of dollars of revenue on a monthly basis. In a survey of  
19 its initial trial users, 643 determined that there was overwhelming interest and engagement from  
20 users of the App. In response to its survey, 96% of users said the App was easy to use and  
21 understand; 75% of users said they were likely to recommend the App to a friend, with 40%  
22 saying they already had recommended the App to a friend; 72% said they were happy with the  
23 results returned from their searches; 32% said they would use the App every day while 67% said  
24 they would use it once in a while; 60% of users said they would pay for the App, with 7% saying  
25 they would pay \$2.99, 21% saying they would pay \$1.99, and 32% saying they would pay \$0.99;  
26 and 32% said they would pay for an ongoing subscription to run additional searches.



154. In total, 643 expended capital and uncompensated labor by its team members in developing and marketing the App in the high six or low seven figures in an amount to be determined at trial. The value of the outstanding shares of ownership interest in 643 at the time Facebook notified 643 that its App would no longer function was \$4,081,950 based on the established price per purchased share. 643's lost profits under conservative growth assumptions over a five-year period and without incorporating additional applications 643 may have decided to build is estimated at \$88,193,389.

155. After Facebook notified 643 its App would no longer function on January 20, 2015, 643 attempted to contact Facebook to make known the harm. Facebook ignored 643's attempts to engage in productive conversation regarding this harm. Faced with the imminent loss of its investment, 643 wrote to Facebook on March 16, 2015, and informed Facebook that its decision to discontinue access to the Graph API Data would harm 643 in several ways. 643 informed Facebook that it had reasonably relied on Facebook's representations and partial disclosures for over seven years. 643 requested that Facebook continue to permit Developers to access the Graph API Data.

156. 643 alerted Facebook to the considerable harm it would suffer should access be removed. 643 also noted that some of its users had entered into subscriptions that extend beyond the April 30, 2015, cut-off date, and that these users could be entitled to refunds of their purchases.

157. Thus, Facebook had actual knowledge of the contracts 643 had entered into with its users. In addition, Facebook had actual knowledge of the prospective economic relationships 643 expected with its users, as well as Facebook users generally.

158. On or about April 30, 2015, Facebook ended Developer access to the Graph API Data, including photos data, to all companies except those that entered into separate agreements with Facebook for special access, which, upon information and belief, was typically only granted once those companies also agreed to make unrelated advertising purchases or provide other valuable consideration.

159. As a result of Facebook restricting access to Graph API, the App no longer functioned and could not be made to function.

160. Upon information and belief, Facebook has been working on its own applications using image recognition and photo and video sharing.

161. On June 15, 2015, less than two months after restricting Graph API access, Facebook announced the launch of “Moments,” which allows users to “sync” photos they have taken with their friends and, using Facebook’s facial recognition software, allows users to search photos that their friends have shared with them. *See* <http://newsroom.fb.com/news/2015/06/introducing-moments/> (last accessed October 27, 2015). This Moments application is directly competitive with 643’s App.

162. Instagram is an online photo sharing service that Facebook acquired in 2012, around the time it decided, upon information and belief, to implement its fraudulent and anti-competitive schemes.

163. In June 2015, just two months after Facebook closed access to the Friends' Photos Endpoint, Instagram announced enhancements to its 'Search and Explore' features, which allow users to search through photos that have been shared with that user on Instagram. Instagram is directly competitive with 643's App.

164. In 2016, Facebook launched Facebook Live, its video sharing service which allows users to take and share videos with their friends. Facebook Live is directly competitive with 643's App.

165. Upon information and belief, in addition to 643, other Developers have been adversely impacted by Facebook restricting access to Graph API Data.

166. On September 21, 2015, the Wall Street Journal reported that Facebook's decision to restrict access to Graph API has caused a drug addiction researcher to halt his research efforts, shut down a voter-registration tool used by the 2012 Obama campaign, and decommissioned an app designed to help first generation college students connect with one another. Deepa Seetharaman & Elizabeth Dwoskin, "Facebook's Restrictions on User Data Cast a Long Shadow;

1 Curbs disrupt startups, academic research and even political strategy”, THE WALL STREET J.,  
2 Sept. 22, 2015, at B1 (available at  
3 <http://www.wsj.com/articles/facebook-restriction-on-user-data-cast-a-long-shadow-1442881332>).

4 167. The Wall Street Journal also reported in the same article that Facebook reached an  
5 unspecified compromise with dating app Tinder that permitted some form of access to photos of  
6 mutual friends. Upon information and belief, Tinder provided highly valuable unrelated financial  
7 consideration to Facebook in exchange for this special access to data.

8 168. Upon information and belief, Facebook entered into agreements with many large  
9 companies with the financial wherewithal to make substantial payments in unrelated advertising  
10 purchases on Facebook in order to continue to maintain access to data that Facebook promised  
11 would be available to all companies on fair and neutral terms. Upon information and belief, these  
12 companies combined, conspired and agreed to work with Facebook to restrict access to social  
13 data within specific vertical markets within Facebook Platform, such as dating, photo sharing,  
14 messaging, lifestyle, news, books, games, videos and e-commerce applications.

15 169. Because 643 is a small business with limited resources, Facebook never offered  
16 643 a compromise that would permit the App to function and even if Facebook were to make  
17 such an offer, the harm to 643 is irreparable as its team members have moved on to new  
18 employment and its code has been fully retired.

19 170. Instead, the only proposed technical “fix” by Facebook was to create an offline,  
20 searchable cache of Facebook’s users’ photos. But this solution (1) on its face violates  
21 Facebook’s own terms, (2) would not permit the App to function as originally intended and in the  
22 same manner it had been, and (3) could result in a grave and substantial abuse of user trust,  
23 violate user privacy, and gut the core principle of an individual’s ownership and control of their  
24 own data. Facebook only offered this “fix” after multiple communications from 643’s counsel  
25 providing notice to Facebook of 643’s intention to commence this litigation.

26 171. Facebook did not restrict Graph API data for the purpose of enhancing user  
27 privacy, as users already possessed complete control over such data. Instead, it took these actions  
28

1 for the purpose of improperly oligopolizing for itself and other large companies various attractive  
2 software markets. As a result of these actions, users now have less control over this data. They are  
3 not permitted to share it with other applications they trust, but only with Facebook and a small  
4 group of companies that pay Facebook large sums of money in unrelated advertising purchases or  
5 other financial consideration of strategic value to Facebook.

6 172. As set forth above, Facebook and certain of its executives made repeated, clear and  
7 unambiguous representations and partial disclosures of fact upon which many Developers,  
8 including 643, reasonably relied, over a period of more than seven years. Facebook and certain of  
9 its executives knew or should have known these representations were false at the time they made  
10 them, but continued to make these representations intentionally, recklessly, maliciously,  
11 oppressively and fraudulently with complete disregard for the impact they would have on tens of  
12 thousands of businesses and the families that depend upon them.

13 173. As set forth above, Facebook and certain of its executives deliberately withheld its  
14 decision to close access to data in its operating system for approximately two years and continued  
15 to entice Developers, including 643, to invest capital and resources with the knowledge that such  
16 investments would be irreparably damaged.

17 174. As set forth above, Facebook and certain of its executives then combined and  
18 conspired with other large companies to oligopolize specific vertical markets by providing  
19 unequal access to the Social Graph in exchange for these companies providing unrelated  
20 advertising payments or other in-kind consideration to the extreme detriment of all other market  
21 participants.

22 175. As set forth above, Facebook and certain of its executives, at the direction of  
23 Zuckerberg, then concocted a completely fabricated narrative in order to mask their anti-  
24 competitive and deceptive behavior that resulted in tens of thousands of businesses facing  
25 financial hardship and in some cases, like 643's case, shutting down.

26 176. Facebook and certain of its executives, in combination and concert with other large  
27 companies, deliberately baited, induced and enticed (through countless promises in both official  
28



1 statements and policies and in its conduct) Developers to help turn Facebook from a website that  
2 had raised \$37 million and secured 24 million users to one of the most valuable enterprises in the  
3 world, unjustly enriching Facebook and certain of its executives and their co-conspirators at the  
4 expense of small and mid-size companies around the world.

5 **COUNT I: VIOLATION OF BUSINESS AND PROFESSIONS CODE §§ 17200 et seq.**  
6 **[Against All Defendants]**

7 177. 643 re-alleges and repleads paragraphs 1 through 176 as though set forth fully  
8 herein.

9 178. Facebook's representations and conduct were designed to, and did, entice 643 and  
10 other Developers to create applications for Facebook with representations of, among other things,  
11 a level playing field, fair competition, and a chance to build a business. Facebook decided to open  
12 Graph API and certain types of data, and not others, precisely to induce Developers to build  
13 certain types of applications, including advanced photo-searching applications. Facebook  
14 represented to Developers that their own advanced photo-searching applications would be treated  
15 on a level playing field with any photo-searching applications Facebook decided to launch in the  
16 future. Facebook also represented to developers that Facebook was committed over the long term  
17 to enable Developers to build businesses using advanced photo-searching applications.

18 179. Facebook caused substantial harm to 643 and other Developers when it then  
19 decided to terminate Developers' ability to build advanced photo-searching applications, while  
20 retaining the ability to create these kinds of applications for itself and for its close partners,  
21 because 643, like other Developers, had invested considerable capital and resources in developing  
22 this kind of application for Facebook.

23 180. The efforts by 643 and other Developers helped to drive user adoption of  
24 Facebook by enhancing user experience, thus creating substantial additional revenue and user  
25 base for Facebook's benefit.

26 181. In addition, Facebook took advantage of the market research and development  
27 efforts by 643 and other Developers, which proved that advanced photo-searching applications  
28 represented a massive market, perhaps one of the most attractive markets to help Facebook grow

1 its revenues going forward, as evinced by Facebook's recent announcement of "Moments", its  
2 own photo searching application (see "Facebook Moments is a Smarter Photo App – Much  
3 Smarter, in *Wired Magazine*, June 15, 2015, [http://www.wired.com/2015/06/facebook-](http://www.wired.com/2015/06/facebook-moments/)  
4 moments/).

5 182. Facebook's decision to restrict access to Graph API data does not enhance user  
6 privacy because the App could only sort through photos that had already been shared with the  
7 App user and the App user and the user's friends had full control over which, if any, Developers  
8 were permitted to access their photos.

9 183. Instead, by restricting access to Graph API, Facebook has oligopolized for itself  
10 and other large companies that entered into special agreements with Facebook the ability to create  
11 applications capable of searching or sorting photos and other media, which harms consumers,  
12 Developers, and competitors.

13 184. No countervailing benefits to competition or consumers stemming from  
14 Facebook's representations and conduct exist.

15 185. The harm to 643 and other Developers by Facebook's representations and conduct  
16 outweighs the purported reasons, justifications, or motives for the representations and conduct by  
17 Facebook.

18 186. 643 could not have reasonably avoided its injury because Facebook notified 643 it  
19 would be restricting data access after 643 had made considerable investment and Facebook had  
20 approved the App.

21 187. 643 also requested that Facebook not restrict Graph API data, but Facebook did  
22 not change its decision.

23 188. Facebook's actions thus constituted an unfair business practice under California's  
24 Unfair Business Practices Act.

25 189. Facebook's decision to restrict Graph API data and provide it on unequal terms  
26 was also unlawful.

1           190. Facebook's decision to induce 643 to invest in building the App on top of Graph  
2 API when Facebook already knew that it would be restricting access to Graph API was also  
3 unlawful.

4           191. In taking the actions alleged herein, Facebook acted with fraud, malice and  
5 oppression, and in reckless disregard of the rights of 643.

6           192. 643 suffered substantial injury as a result of Facebook's actions, including the loss  
7 of its investment in developing the App, the loss of its enterprise value and the loss of future  
8 profits.

9           193. Accordingly, Facebook is liable to 643 for violation of California's Unfair  
10 Business Practices Act.

11           194. As a proximate result of the acts and conduct of Facebook herein alleged, 643 has  
12 found it necessary to engage attorneys, and incur attorney's fees, and will continue to incur  
13 attorney's fees, in an unascertained amount to be established according to proof following the  
14 conclusion of trial.

15                           **COUNT II: BREACH OF CONTRACT**  
16                           **[Against Facebook]**

17           195. 643 re-alleges and repleads paragraphs 1 through 194 as though set forth fully  
18 herein.

19           196. 643 and Facebook entered into an agreement on December 11, 2012 in which  
20 Facebook offered 643 "all rights necessary to use the code, APIs, data, and tools you receive from  
21 us." (FB\_0000021, Section 9.8). Facebook defined "Platform" as "a set of APIs and services  
22 (such as content) that enable [643] to retrieve data from Facebook or provide data to  
23 [Facebook]....By 'content' we mean anything...users post on Facebook.... By 'data' or 'user  
24 data'...we mean any data, including a user's content or information that you or third parties can  
25 retrieve from Facebook or provide to Facebook through Platform.... By 'application' we mean  
26 any application or website that uses or accesses Platform." (FB\_0000025). In exchange, 643  
27 provided a host of rights to Facebook, including but not limited to a right to analyze and generate  
28 advertising revenues from 643's application (Section 9.17), place content around 643's



1 application (Section 9.16) and issue press releases around 643's applications (Section 9.12).  
2 (FB\_0000021). Further, 643 agreed to undertake a host of obligations under the agreement around  
3 which it incurred substantial cost. (FB\_0000020 - FB\_0000021).

4 197. 643 did all or substantially all of the significant things that the contract required it  
5 to do. 643 abided by all of its contractual obligations at all times. At no time did Facebook ever  
6 contact 643 to notify 643 that Facebook believed 643 was in potential violation of its Agreement  
7 with Facebook. 643 met all of the conditions required for Facebook's performance under the  
8 agreement.

9 198. Beginning April 30, 2015, Facebook failed to provide 643 with the rights  
10 necessary to use Facebook's code, APIs, data, and tools in breach of the agreement and after 643  
11 had incurred substantial cost in meeting all of its performance obligations under the Agreement.

12 199. Further, upon information and belief, at all times after entering into the Agreement  
13 on December 11, 2012, Facebook failed to provide 643 with access to Facebook's code, APIs,  
14 data and tools on terms that were equal and neutral relative to the terms provided to all other  
15 Developers in breach of the Agreement.

16 200. Facebook's decision to willfully, intentionally and negligently mislead 643 and  
17 tens of thousands of other Developers violated the implied covenant of good faith and fair dealing  
18 insofar as Facebook's alleged conduct unfairly interfered with 643's right to receive the benefits  
19 of its agreement with Facebook.

20 201. Facebook's decision to willfully, intentionally and negligently mislead 643 and  
21 tens of thousands of other Developers violated Facebook's implied duty to perform with  
22 reasonable care.

23 202. 643 was harmed by Facebook's conduct and Facebook's breach of its agreement  
24 with 643 was a substantial factor in 643's harm. If Facebook had performed and provided 643  
25 rights necessary to access Facebook's data, APIs and tools, 643 would not have been harmed.

26 203. Any limitation of liability provided for in Facebook's agreement with 643 is  
27 unenforceable in accordance with California Civil Code § 1668, which declares unlawful  
28

1 contracts exempting persons from the consequences of their own fraud, willful injury or violation  
2 of the law, whether willful or negligent.

3 204. Any limitation of liability provided for in Facebook's agreement with 643 is  
4 unenforceable as the limitation of liability clause, as drafted by Facebook, fails to insulate  
5 Facebook from liability resulting from Facebook's own negligence.

6 205. Any limitation of liability provided for in Facebook's agreement with 643 is  
7 unenforceable as Facebook and 643 had dramatically unequal bargaining strength, the agreement  
8 was provided on a "take it or leave it" basis and drafted entirely by Facebook, and greatly affects  
9 and implicates the public interest.

10 206. 643 was injured as a result of Facebook's breach of the agreement in an  
11 unascertained amount in excess of \$25,000.00, to be established according to proof at trial.  
12 Accordingly, Facebook is liable to 643 for damages. 643's damages as a result of the breach of  
13 contract include the loss of its investment and time spent in developing its technology in  
14 reasonable reliance on its agreement with Facebook, the complete loss of its enterprise value, and  
15 its lost future profits in an aggregate amount to be ascertained at trial.

### 16 **COUNT III: CONCEALMENT**

#### 17 **[Against all Defendants]**

18 207. 643 re-alleges and repleads paragraphs 1 through 206 as though set forth fully  
19 herein.

20 208. From 2007 to at least 2015, Facebook, Zuckerberg and the Conspiring Facebook  
21 Executives repeatedly made partial disclosures of fact while withholding other material facts that  
22 substantially qualified and often directly contradicted the partial disclosures made by Facebook.  
23 643 relied on these partial disclosures of fact, had no ability to discover the material facts being  
24 withheld, and if 643 had discovered the material facts being withheld, 643 would not have  
25 incorporated and raised its seed capital and/or would not have invested in or continued to invest  
26 in building its business.

1           209. Upon information and belief, in 2011 and 2012, Zuckerberg held discussions with  
2 Facebook executives Cox, Olivan, Lessin, Sheryl Sandberg, Andrew Bosworth and others in  
3 which Zuckerberg made a decision to weaponize Facebook Platform using a policy called  
4 “Reciprocity,” which included Zuckerberg’s decision to shut down public access to the Graph  
5 API Data upon which 643’s business depended. Upon information and belief, Zuckerberg’s  
6 motivations for his decision to create a Reciprocity Policy and shut down public access to Graph  
7 API data were two-fold: (1) restrain competition in a wide range of software markets to make  
8 room for new products from Facebook and its close partners; and (2) shut down all mechanisms  
9 for apps to grow organically in order to force apps to prop up Facebook’s new mobile advertising  
10 business or else Facebook would shut them down. The first motivation helped ensure that no new  
11 competitive threat could ever become as big as Facebook; the second motivation ensured that  
12 Facebook could make the transition from desktop to mobile without experiencing a significant  
13 drop in revenues in order to turn around the underperforming business. Upon information and  
14 belief, the Reciprocity Policy required that a Developer provide to Facebook anything that  
15 Facebook in its own discretion deemed valuable, including unrelated advertising purchases,  
16 feeding data back to Facebook, ownership interests in the Developer’s company, intellectual  
17 property rights, or other valuable but unrelated consideration in order to continue to maintain  
18 access to publicly available Graph API Data. Upon information and belief, if companies refused  
19 to reciprocate, Facebook would shut off their access to data and/or build its own scraping tools to  
20 pull data from the company’s website or app directly. Upon information and belief, the practical  
21 effect of the Reciprocity Policy for many companies was that they would be shut out of Facebook  
22 Platform, and this was Zuckerberg’s intention in implementing the Reciprocity Policy.

23           210. Facebook published its Reciprocity Policy in 2012 or 2013 on its public website  
24 but, upon information and belief, intentionally, maliciously, willfully and negligently opted not to  
25 disclose that this policy entailed the privatization of Graph API Data that Facebook for years had  
26 represented would be available publicly on equal and fair terms. Facebook further did not disclose  
27 when publishing this policy that Facebook had already begun enforcing these anti-competitive  
28

1 data restrictions and had active plans to expand the data restrictions to many companies, including  
2 643. Upon information and belief, Facebook's partial disclosure of its Reciprocity Policy was  
3 designed to conceal full disclosure of Facebook's bait-and-switch scheme while enabling  
4 Facebook to have a pretext to begin enforcing the scheme. Had Facebook made a full disclosure  
5 that the Reciprocity policy entailed removal of the Graph API Data from public Platform, then  
6 643 would not have invested in or continued to invest in its business.

7 211. Upon information and belief, once Zuckerberg decided to remove the Graph API  
8 Data to competitors, Zuckerberg personally maintained an ever-growing list of competitors that  
9 only he could authorize blacklisting from the Graph API Data. Upon information and belief, once  
10 a Developer was blacklisted from the Graph API Data, any applications the Developer built could  
11 no longer use any of the blacklisted data that Facebook purportedly provided publicly and on fair  
12 and neutral terms to all Developers. Upon information and belief, blacklisted data often included  
13 the Graph API data, including the full friends list, friends permissions and newsfeed APIs – data  
14 types that were among the most popular on Facebook Platform and upon which 643's business  
15 and many other businesses depended. Facebook made partial public disclosures that certain  
16 blacklisted companies had their data access restricted but claimed these restrictions were due to  
17 clear policy violations. Upon information and belief, while some of these restrictions were due to  
18 policy violations, in numerous other cases Facebook manipulated its own policy as a pretext to  
19 enforce anti-competitive data restrictions while concealing the announcement of these  
20 restrictions. Had Facebook made a full disclosure that companies were being blacklisted because  
21 Facebook considered them competitive, then 643 would not have invested in or continued to  
22 invest in its business.

23 212. Upon information and belief, Zuckerberg's blacklist first contained only a handful  
24 of large competitors in 2011, but then was quickly expanded in 2012 to include major messaging  
25 applications, professional services, and contact management applications. Upon information and  
26 belief, by 2013, the blacklist included gifting apps, sharing economy apps, utility apps, file  
27 repository apps, payment apps, birthday reminder apps, photo and video apps, calendar apps,  
28



1 lifestyle apps, and health and fitness apps. Facebook at various times shut down data access to  
2 apps in these categories and made partial disclosures that these apps were in violation of policies.  
3 However, upon information and belief, many of these apps violated no published policy. Rather,  
4 policy was used as a pretext for anti-competitive data restrictions. Had Facebook fully disclosed  
5 its reasons for shutting down access to these apps in its public statements, 643 would not have  
6 invested in or continued to invest in its business. Facebook's partial disclosures around its reasons  
7 for shutting down data access to these app categories at various times from 2012 through 2015  
8 greatly enriched Facebook by making room for its own products on mobile phones – as a result,  
9 four of the five most popular apps worldwide across all major smartphone platforms are now  
10 Facebook-owned apps ([https://thenextweb.com/apps/2017/04/18/facebook-downloaded-app-](https://thenextweb.com/apps/2017/04/18/facebook-downloaded-app-netflix/)  
11 [netflix/](https://thenextweb.com/apps/2017/04/18/facebook-downloaded-app-netflix/)).

12         213. During this time Facebook maintained a public “size policy” whereby companies  
13 that acquired large numbers of users could be potentially subject to rate limiting or data throttling  
14 restrictions, which is standard in the industry. However, upon information and belief, the “size  
15 policy” also included an informal but effective component whereby if a company became too  
16 large and successful, it would go on Zuckerberg's blacklist and have their data access shut off.  
17 Upon information and belief, the “size policy” published on the Facebook website would have  
18 been materially qualified if Facebook had fully disclosed its own internal definition of the “size  
19 policy”. Upon information and belief, Facebook employees would even encourage companies to  
20 continue to rely on its data or avoid telling the company its data will be shut off in order to induce  
21 the company to grow in reliance on Facebook with full knowledge that once the company  
22 obtained a certain size, Facebook would shut it down. Facebook thus made a partial disclosure  
23 that it was maintaining a fair and neutral platform but failed to qualify this disclosure with  
24 material information that the size of a company would affect Facebook's position on whether to  
25 remain fair and neutral. Had Facebook shared all material facts related to its size policy, 643  
26 would never have invested or continued to invest in building its business.

214. Upon information and belief, starting in mid-to-late 2012 and continuing through mid-2013, Zuckerberg communicated the decision he had already made to restrict Graph API data in order to restrain competition for Facebook's new products and to prop up Facebook's new mobile advertising business to senior executives on the Platform team, including Vernal (VP Engineering for Platform), Sukhar (Head of Developer Products), Doug Purdy (Director of Engineering for Platform), Eddie O'Neil (Product Manager for Platform), and other senior members of the Platform and developer teams. Upon information and belief, starting in late 2012 and throughout 2013, at Zuckerberg's instruction, Vernal, Sukhar, Purdy, O'Neil and others began implementing Zuckerberg's decision to restrict data access for anti-competitive reasons under the Reciprocity Policy framework. Upon information and belief, the Platform team, managed by Vernal, was working on a public announcement of these changes to be released before the end of 2012. However, the changes were not publicly disclosed. Had Facebook made the planned public announcement in late 2012, 643 would never have invested in or continued to invest in building its business.

215. After Zuckerberg's decision to restrict Graph API Data for anti-competitive reasons, Facebook continued to represent publicly that Facebook Platform was a fair and neutral competitive playing field and that access to this data would remain available without specifying any term. By way of example, Cox's June 20, 2012 speech disclosed that Ticketmaster dramatically increased revenues by incorporating friends data, disclosing that friends data was valuable to businesses, and yet Cox made no mention that Facebook was removing the full friends list and friends data would only apply to existing app users, making it impossible for new companies to build applications that compete with incumbents. This partial representation inducing developers to use friends data would have been materially qualified by the fact that, upon information and belief, Cox already knew that friends data would be severely restricted.

216. By way of example, Zuckerberg's October 20, 2012 speech disclosed that Facebook maintained the largest and highest quality photos database on the Internet, implying that this data was extremely valuable to developers, and yet Zuckerberg withheld that he had

1 already decided to dramatically restrict access to this photos database and had already begun  
2 arbitrarily restricting access to this photos database. This partial representation inducing  
3 developers to build businesses using Facebook's photos database would have been materially  
4 qualified by the fact that, upon information and belief, Zuckerberg already knew (since he made  
5 the decision) that this database was going to be severely restricted.

6 217. By way of example, Eddie O'Neil's February 28, 2013 training session teaching  
7 developers how to build applications using the full friends list was a partial disclosure of the  
8 availability of the full friends list that clearly was intended to induce developers to spend time and  
9 money using the full friends list. This partial representation inducing developers to build  
10 businesses using the full friends list would have been materially qualified by the fact that, upon  
11 information and belief, O'Neil was informed in late 2012 (and therefore already knew) that this  
12 database was going to be severely restricted. O'Neil's false statements and partial disclosures  
13 were made at the direction of the Conspiring Facebook Executives.

14 218. By way of example, Simon Cross' February 28, 2013 training session teaching  
15 developers how to access a user's friends photos and profile pictures was a partial disclosure of  
16 the availability of a user's friends photos and profile pictures that clearly was intended to induce  
17 developers to spend time and money using friends' photos in their applications. This partial  
18 representation inducing developers to build businesses using friends' photos would have been  
19 materially qualified by the fact that, upon information and belief, Cross knew or should have  
20 known that this database was going to be severely restricted, as his superiors decided to restrict it  
21 and began enforcing restrictions of it at least by 2012. Cross' false statements and partial  
22 disclosures were made at the direction of the Conspiring Facebook Executives.

23 219. By way of example, Cross' June 20, 2013 training session teaching developers  
24 how to access a user's friends photos and profile pictures was a partial disclosure of the  
25 availability of a user's friends photos and profile pictures that clearly was intended to induce  
26 developers to spend time and money using friends' photos in their applications. This partial  
27 representation inducing developers to build businesses using friends' photos would have been  
28



1 materially qualified by the fact that, upon information and belief, Cross had already been  
2 informed by his superiors that the data he was inducing these developers to build businesses  
3 around was going to be severely restricted. Cross' false statements and partial disclosures were  
4 made at the direction of the Conspiring Facebook Executives.

5         220. By way of example, Zuckerberg's September 18, 2013 speech in which he stated  
6 that Facebook wants to "make it simple to build great apps that have identity, friends and all the  
7 stuff that you want built in really easily" was a partial disclosure of the availability of friends data  
8 and the other valuable Graph API data that clearly was intended to induce developers to spend  
9 time and money building their products and businesses around Facebook's friends data and other  
10 valuable Graph API data. This partial representation inducing developers to build these  
11 businesses using this data would have been materially qualified by the fact that, upon information  
12 and belief, Zuckerberg had decided more than a year prior to severely restrict the data he was  
13 inducing developers to use to build their businesses.

14         221. Further, upon information and belief, at the F8 on April 30, 2014, Zuckerberg  
15 made repeated partial disclosures on stage that would have been materially qualified by facts of  
16 which Zuckerberg was already aware. Zuckerberg disclosed that developers would have two  
17 years to build against Facebook's current Graph API, but failed to disclose the material fact that  
18 this did not apply to the existing Graph API but only to future versions. Zuckerberg disclosed that  
19 developers could choose to decide which version of the API to build against, but failed to disclose  
20 the material fact that this choice would be time-constrained by Facebook with a time limit set in  
21 Facebook's own discretion. Zuckerberg disclosed that certain valuable Graph API data would be  
22 removed, but failed to disclose the material fact that this data was not in fact being removed  
23 entirely but was simply being privatized for the benefit of companies who paid Facebook  
24 substantial advertising fees. Zuckerberg disclosed that certain valuable Graph API data would be  
25 removed, but, upon information and belief, failed to disclose the material fact that he had already  
26 decided to remove other valuable Graph API data, most importantly the newsfeed APIs.

1           222. These and numerous other partial disclosures that deliberately shared certain facts  
2 but withheld other related material facts induced investment by developers, including 643,  
3 notwithstanding Facebook's full knowledge that these investments would be irreparably  
4 damaged. These partial disclosures were designed to unjustly enrich Facebook and the Conspiring  
5 Facebook Executives and were made repeatedly by Facebook and certain of its executives on  
6 many occasions from May 2007 until at least January 20, 2015, including on the dates and times  
7 alleged herein, and in particular in speeches by Zuckerberg and official statements posted on  
8 Facebook's website.

9           223. Facebook, Zuckerberg and the Conspiring Facebook Executives further engaged in  
10 partial disclosures of fact related to the fraudulent narrative they fabricated to mask the anti-  
11 competitive scheme. Upon information and belief, in early 2014, Zuckerberg directed Sukhar and  
12 Vernal to develop a narrative that disclosed that the Graph API Data would be completely  
13 removed from Facebook Platform. Upon information and belief, however, this partial disclosure  
14 omitted the fact that, although the data was being removed from public view, it was not being  
15 removed from Facebook Platform. Upon information and belief, instead of being removed, the  
16 data was being privatized. Upon information and belief, Zuckerberg deliberately concealed the  
17 fact that the Graph API Data was being privatized in his April 30, 2014 announcement and  
18 instead made only a partial disclosure that the information was being removed. Upon information  
19 and belief, Facebook had already for over a year or more engaged numerous companies to enter  
20 into special whitelist agreements to maintain private access to the data after it was publicly  
21 removed. Upon information and belief, the companies who were offered special, whitelist access  
22 to the privatized Graph API Data were ones who either agreed to purchase hundreds of thousands  
23 of dollars in unrelated mobile ads, were friends of Zuckerberg, Sandberg or other Facebook  
24 executives, or provided other valuable consideration, such as intellectual property or data, to  
25 Facebook. Had Facebook disclosed at any time in 2012, 2013, or 2014 that the Graph API Data  
26 was being privatized in any of its numerous public disclosures regarding Graph API Data, of  
27  
28

1 which it sent dozens to 643, then 643 would have not invested in or continued to invest in  
2 building its business.

3 224. Facebook and certain of its executives had a duty to speak truthfully and to  
4 disclose material information concerning the closing of access to data arising from Facebook's  
5 Agreement with 643 to be a Developer on Facebook Platform and 643's Agreement to abide by  
6 Facebook's policies and procedures, as alleged above. Upon information and belief, Facebook's  
7 public justification that it was implementing the anti-competitive Graph API Data restrictions in  
8 order to protect user privacy and control only partially disclosed Facebook's justifications. Upon  
9 information and belief, Facebook concealed the anti-competitive Graph API Data restrictions  
10 behind a revamp of its Login product in order to cloak these changes under a narrative about user  
11 control and privacy. The narrative that Facebook removed the Graph API Data to give users more  
12 control is directly undermined by the fact that after the changes were implemented, Facebook  
13 users could no longer control whether friends could access their information on third party apps.  
14 The control users previously had to enable their friends to access data about them from apps other  
15 than Facebook was transferred over to Facebook. This meant that only Facebook (and not  
16 Facebook's users) could now decide what data a user's friends could see about them on other  
17 apps. Had Facebook not concealed its anti-competitive Graph API Data restrictions behind the  
18 Login product announcement, 643 would not have continued investing in its business and would  
19 have substantially mitigated its damages.

20 225. Further, upon information and belief, Facebook provided full disclosure of these  
21 changes to certain Developers throughout 2012, 2013 and 2014 but did not fully disclose the  
22 nature of these changes to 643 until January 20, 2015. Had Facebook made full disclosure to 643  
23 at the time it made full disclosure to certain other Developers, then 643 would not have invested  
24 or continued to invest in building its business.

25 226. Further, Facebook's public disclosure that it made these changes out of respect for  
26 user privacy is undermined by numerous Facebook projects that deliberately, willfully,  
27 intentionally, recklessly and negligently violated privacy by only making partial disclosures to  
28

1 Developers regarding how Facebook collected, stored and transmitted user data. Upon  
2 information and belief, beginning at least by 2012, Olivan directed a range of projects under the  
3 supervision and direction of Zuckerberg, Cox and Lessin that deliberately, intentionally,  
4 maliciously, recklessly and negligently violated user privacy in order to effectuate Facebook's  
5 anti-competitive scheme of baiting companies to rely on Facebook Platform only to shut them  
6 down in order to restrain competition in a wide range of software markets. At all times, Olivan  
7 was acting under the direction and approval of Zuckerberg, Cox and Lessin, who authorized  
8 partial disclosures of Facebook's conduct that would have been undermined had Facebook made  
9 a full disclosure of material facts. 643 relied on Facebook's partial disclosures that it respected  
10 user privacy, as this was a key consideration in whether it was safe to build a business on  
11 Facebook's operating system. Had Facebook made full disclosures regarding any of its deceptive  
12 projects violating user privacy, 643 would not have felt comfortable continuing to invest in  
13 building its business as Facebook's privacy failures directly impact 643 in two key ways: (1)  
14 Facebook's privacy failures make it extremely difficult for 643 to establish trust with its own  
15 customers; (2) Facebook's unfair competitive advantage gained by information obtained in  
16 violation of user privacy makes it extremely difficult for 643 to compete on a level playing field.  
17 In short, Facebook deliberately and repeatedly undermining its public commitment to user  
18 privacy caused substantial harm to 643's customers and created a risk to 643's business. Had 643  
19 been aware of the full scope of any of these projects, 643 could not have proceeded in good  
20 conscience with building a business that relied on Facebook.

21         227. By way of example, upon information and belief, as disclosed in an August 2017  
22 Wall Street Journal article ([https://www.wsj.com/articles/facebooks-onavo-gives-social-media-](https://www.wsj.com/articles/facebooks-onavo-gives-social-media-firm-inside-peek-at-rivals-users-1502622003)  
23 [firm-inside-peek-at-rivals-users-1502622003](https://www.wsj.com/articles/facebooks-onavo-gives-social-media-firm-inside-peek-at-rivals-users-1502622003)), Facebook directed a project to collect certain data  
24 from consumers who had downloaded the Onavo app, a virtual private network app downloaded  
25 by approximately 30 million people, which Facebook purchased in October 2013. Upon  
26 information and belief, before the WSJ article, Facebook failed to disclose that it used Onavo data  
27 to measure what people do on their phones beyond Facebook's own suite of apps, including



1 detailed information on things such as which apps people generally are using, how frequently, for  
2 how long, and whether more women than men use an app in a specific country. Upon  
3 information and belief, Facebook failed to disclose that it used this data for competitive  
4 intelligence of numerous apps. Further, upon information and belief, Facebook's decision to  
5 purchase a large competitive application (WhatsApp) was heavily influenced by Facebook's  
6 ability to obtain this non-public information from Onavo. Upon information and belief, at all  
7 times, the employees involved in this project were acting under the direction and approval of  
8 Zuckerberg, Cox, Lessin and Olivan. Had Facebook fully disclosed this deceptive practice  
9 publicly to users and Developers when it made public disclosures regarding its purchase of Onavo  
10 and its update to Onavo's Terms of Service, then 643 would not have invested in or continued to  
11 invest in building its business.

12         228. Upon information and belief, at least by 2012 or 2013, Facebook collected various  
13 content and metadata regarding communications on Android phones without fully disclosing this  
14 to Facebook's users. Upon information and belief, Facebook used this data to give certain  
15 Facebook products and features an unfair competitive advantage over other social applications on  
16 Facebook Platform. Facebook disclosed publicly that it was reading text messages in order to  
17 authenticate users more easily (see, e.g., <https://www.facebook.com/help/210676372433246>).  
18 Upon information and belief, this partial disclosure failed to state accurately the type of data  
19 Facebook was accessing, the timeframe over which it had accessed it, and the reasons for  
20 accessing the data of these Android users. Upon information and belief, Facebook also actively  
21 collected information it did not fully disclose from non-Facebook and non-Android users who  
22 communicated with Facebook users who owned Android phones. These consumers never  
23 consented to have Facebook collect this information. Upon information and belief, at all times,  
24 the employees involved in this project were acting under the direction and approval of  
25 Zuckerberg, Cox, Lessin and Olivan. Had Facebook fully disclosed its practices regarding  
26 collection and use of metadata and content of communications on Android phones, 643 would not  
27 have invested in or continued to invest in building its business.

229. Further, upon information and belief, Facebook deliberately ignored the privacy settings of a Facebook user's friend list in order to improve a certain prominent feature in the Facebook app and website. Upon information and belief, Facebook made partial public disclosures of this practice while withholding material facts that, if disclosed, would have materially qualified Facebook's public statement (see, e.g., <https://gizmodo.com/facebook-figured-out-my-family-secrets-and-it-wont-tel-1797696163>). Upon information and belief, at all times, the employees involved in this project were acting under the direction and approval of Zuckerberg, Cox, Lessin and Olivan. Had Facebook made a full public disclosure regarding whether it respected user privacy settings for *all* Facebook features, then 643 would not have invested in or continued to invest in building its business.

230. Further, upon information and belief, Facebook implemented a project to turn on the Bluetooth setting in the background in order to locate users. Upon information and belief, Facebook made partial disclosures regarding how and when it would turn on the Bluetooth feature and collect and store this data. Upon information and belief, Facebook did not fully disclose how this information would be used by Facebook. Upon information and belief, at all times, the employees involved in this project were acting under the direction and approval of Zuckerberg, Cox, Lessin and Olivan.

231. Further, upon information and belief, in 2013 and 2014 Facebook deliberately implemented code to have a user's privacy setting lapse after a period of time, requiring the user to go through additional effort in order to have the user's privacy settings respected. Facebook made partial disclosures around this time regarding privacy settings, but did not fully disclose that it had caused certain settings to lapse after a period of time. Upon information and belief, at all times, the employees involved in this project were acting under the direction and approval of Zuckerberg, Cox, Lessin and Olivan. Had Facebook fully disclosed its handling of this and related privacy issues, 643 would not have invested in or continued to invest in building its business.

232. Upon information and belief, from 2007 through at least 2015, Facebook willfully, intentionally, recklessly, maliciously and negligently failed to pass privacy or age information when sending Developers Graph API Data. This required Developers, including 643, to incur enormous costs in order to comply with user privacy settings and age restrictions. Facebook made repeated public disclosures that withheld this fact. Upon information and belief, at all times, the employees involved in this project were acting under the direction and approval of Zuckerberg and Vernal. Had Facebook fully disclosed that it did not respect user privacy settings or age requirements when accessing information through third party apps, 643 would not have invested in or continued to invest in its business.

233. Upon information and belief, at least by 2013 and continuing at least through 2015, Facebook continued to explore and implement ways to track users' location, to track and read their texts, to access and record their microphones on their phones, to track and monitor their usage of competitive apps on their phones, and to track and monitor their calls. For example, upon information and belief, Facebook expanded its program to access and monitor the microphone on Android phones in 2015 without securing the explicit consent of all users and while only providing partial disclosures as to what information was being obtained and for what purposes it was being used (see, e.g., <https://www.facebook.com/help/community/question/?id=974781930088> and <https://www.cnn.com/2017/10/30/facebook-denies-listening-to-user-conversations-via-microphones.html>). As another example, upon information and belief, Facebook has not fully disclosed the manner in which it preprocesses photos on the iOS camera roll, meaning if a user has any Facebook app installed on their iPhone, then Facebook accesses and analyzes (using facial and other image recognition) the photos the user takes and/or stores on the iPhone (see, e.g., <https://www.facebook.com/help/community/question/?id=10209909027988265>). Facebook's partial disclosures regarding iPhone photo access and what information it gleans from the photos have been woefully deficient. Upon information and belief, at all times, the employees involved



1 in this project were acting under the direction and approval of Zuckerberg, Cox, Lessin and  
2 Olivan.

3       234. Upon information and belief, Facebook engaged in these deceptive projects in  
4 order to obtain information that enabled Facebook to identify and restrict data access to apps on  
5 Platform that posed a competitive threat and/or to give its own features an unfair competitive  
6 advantage relative to comparable features of other social applications on Platform. Facebook  
7 made various partial disclosures of these projects since 2013 but in almost all cases failed to fully  
8 disclose material information necessary for Developers and users to evaluate their continued use  
9 of Facebook and its Platform. At all times, these projects were undertaken with the direction and  
10 approval of Zuckerberg, Cox, Lessin and Olivan. Had Facebook fully disclosed any of these  
11 practices, these full disclosures would have been important information to 643 that would have  
12 caused it to terminate its relationship with Facebook as building a business on top of a ticking  
13 time bomb of privacy violations would not have been reasonable.

14       235. Facebook's duty to speak truthfully and to disclose material information  
15 concerning its handling of user data in these various projects, its 2011 or 2012 decision regarding  
16 the anti-competitive Graph API Data restrictions also arose from partial disclosures of fact and  
17 misinformation made to 643 and other Developers concerning the manner in which Facebook  
18 collects, stores and transmits data, including that Facebook maintained the data with respect for  
19 user privacy and transmitted it to developers on fair, equal and neutral terms. Facebook's duty to  
20 speak truthfully and to disclose material information concerning its handling of user data and its  
21 decision to close access to the Graph API Data also arose from the fact that 643 and Facebook  
22 had shared confidential and highly sensitive information containing consumers' private  
23 information.

24       236. Facebook's duty to speak truthfully and to disclose material information  
25 concerning its handling of user data and its decision to close access to the Graph API Data also  
26 arose from the fact that 643 and Facebook had entered into a commercial agreement in which 643  
27 expended over \$200,000 in order to build a business using data Facebook sent to 643 and gave  
28

1 643 all rights to use under the Agreement. This Agreement further required that 643 permit  
2 Facebook to audit its highly confidential source code and intellectual property.

3 237. Facebook's duty to speak truthfully and to disclose material information  
4 concerning its handling of user data and its decision to close access to the Graph API Data also  
5 arose from the fact that Facebook made public representations around its management of user  
6 data that enticed tens of thousands of companies to build businesses on Facebook Platform for  
7 many years, greatly enriching Facebook and the Conspiring Facebook Executives all while  
8 Facebook was actively implementing plans to irreparably damage these companies' investments.

9 238. The concealment of material facts by Facebook, Zuckerberg and the Conspiring  
10 Facebook Executives fraudulently induced 643 to enter into its Agreement with Facebook, as 643  
11 would not have entered into the Agreement if Facebook had disclosed the material facts, most  
12 important among them that Zuckerberg already decided to shut down access to the data 643's  
13 business relied upon before 643 was even incorporated or raised seed capital. At no time did 643  
14 rescind its Agreement with Facebook. Facebook, Zuckerberg and the Conspiring Facebook  
15 Executives benefited materially from their fraudulent, malicious and oppressive conduct,  
16 including but not limited to financial benefits tied to the growth of Facebook and the dramatic  
17 reversal of its stock price as a result of restraining competition in a wide range of software  
18 markets and weaponizing Facebook Platform to force companies to build Facebook's new mobile  
19 advertising business or risk being shut down.

20 239. 643 invested considerable capital, labor, time, and effort into developing its  
21 technology in reliance on Facebook's representations and partial disclosures.

22 240. 643's reliance was reasonable because Facebook had consistently made these  
23 representations and partial disclosures for seven years and tens of thousands of other Developers  
24 also relied on these representations and partial disclosures that Facebook was a responsible  
25 steward of privacy and a responsible and fair referee of Facebook Platform, one of the largest  
26 software economies globally.

1           241. 643's reliance was foreseeable by Facebook as Zuckerberg has publicly stated  
2 Facebook's intent was to entice Developers to help generate revenues for Facebook, and  
3 Facebook's conduct for seven years was designed to induce such reliance.

4           242. 643 was injured as a result of its reliance on Facebook's representations and  
5 material omissions, which Facebook knew to be false or acted recklessly in representing as true,  
6 in an unascertained amount in excess of \$25,000.00, to be established according to proof at trial.  
7 In taking the actions alleged herein, Facebook, Zuckerberg and the Conspiring Facebook  
8 Executives acted with fraud, malice and oppression, and in reckless disregard of the rights of 643.

9           243. Accordingly, Defendants are liable to 643 for damages.

10                           **COUNT IV: INTENTIONAL MISREPRESENTATION**

11                                   **[Against all Defendants]**

12           244. 643 re-alleges and repleads paragraphs 1 through 243 as though set forth fully  
13 herein.

14           245. Facebook, Zuckerberg and at various times the Conspiring Facebook Executives  
15 clearly and unambiguously represented to 643 from May 2007 until January 20, 2015 that they  
16 were maintaining a fair and neutral operating system for 643 to build software applications,  
17 including, but not limited to, the following specific representations in official statements,  
18 announcements, documents and meetings:

- 19                   a. 643 would be able to integrate its applications into Facebook's social graph;  
20                   b. 643 would have equal access to data relative to other Developers and to  
21                         Facebook;  
22                   c. 643 would have all rights necessary to access the data, tools and APIs  
23                         Facebook made available;  
24                   d. 643 could easily access Graph API objects, including objects related to friend  
25                         data, photo data, and other data uploaded by Facebook users;  
26                   e. Facebook would support 643 in achieving mass distribution of its applications;  
27                   f. Facebook would provide adequate tools for 643 to build its applications;  
28                   g. 643 would have a fair chance to build a business on Facebook Platform;

- h. 643 would be able to monetize its applications on Facebook;
- i. 643 would be able to build applications on a fair, level playing field relative to Facebook and other Developers;
- j. Developer applications would not be “second class citizens” compared to Facebook’s own applications;
- k. Developer applications that compete with Facebook applications would be welcome; and
- l. As long as 643 abided by its agreement with Facebook, including all privacy requirements, Facebook would be neutral as to 643’s applications and provide 643 with access on equal terms relative to all other Developers.

246. These representations were made repeatedly by Facebook on many occasions from May 2007 until at least January 20, 2015, including on the dates and times alleged herein, and in particular in speeches by Zuckerberg and other Facebook employees at the direction of Zuckerberg or one of the Conspiring Facebook Executives and in official statements posted on Facebook’s website. These representations were false. Facebook, Zuckerberg and the Conspiring Facebook Executives knew such representations to be false or made such representations recklessly and without regard for their truth when they made them or directed other Facebook employees to make them.

247. Upon information and belief, beginning in 2012, Facebook, Zuckerberg and the Conspiring Facebook Executives engaged in conduct and decisions that directly contradicted these representations. Nonetheless, Facebook, Zuckerberg and the Conspiring Facebook Executives continued for over two years to make representations they knew to be false or made such representations recklessly and without regard for their truth. Facebook, Zuckerberg and the Conspiring Facebook Executives intended for 643 and other Developers to rely on such representations and made such representations either directly to 643 or in public fora with reasonable likelihood that such representations would be obtained by 643.

248. Facebook, Zuckerberg and the Conspiring Facebook Executives had a duty to speak truthfully and to disclose material information regarding their decision to restrict access to data in Facebook Platform arising from Facebook’s Agreement with 643 to be a Developer on



1 Facebook Platform and 643's Agreement to abide by Facebook's policies and procedures, as  
2 alleged above.

3 249. Upon information and belief, Zuckerberg repeatedly made statements from 2012  
4 on that he knew to be false at the time he made them. Upon information and belief, Zuckerberg  
5 intended for Developers like 643 to rely on such statements in order to induce them to generate  
6 revenues for Facebook and to avoid public relations and or legal ramifications for Zuckerberg's  
7 malicious, oppressive, fraudulent, reckless, negligent and/or anti-competitive conduct.

8 250. Upon information and belief, Cox repeatedly made statements from 2012 on that  
9 he knew to be false at the time he made them. Upon information and belief, Cox intended for  
10 Developers like 643 to rely on such statements in order to induce them to generate revenues for  
11 Facebook and to avoid public relations and or legal ramifications for Cox's malicious, oppressive,  
12 fraudulent, reckless, negligent and/or anti-competitive conduct.

13 251. Upon information and belief, Olivan repeatedly made statements from 2012 on  
14 that he knew to be false at the time he made them. Upon information and belief, Olivan intended  
15 for Developers like 643 to rely on such statements in order to induce them to generate revenues  
16 for Facebook and to avoid public relations and or legal ramifications for Olivan's malicious,  
17 oppressive, fraudulent, reckless, negligent and/or anti-competitive conduct.

18 252. Upon information and belief, Lessin repeatedly made statements from 2012 on that  
19 he knew to be false at the time he made them. Upon information and belief, Lessin intended for  
20 Developers like 643 to rely on such statements in order to induce them to generate revenues for  
21 Facebook and to avoid public relations and or legal ramifications for Lessin's malicious,  
22 oppressive, fraudulent, reckless, negligent and/or anti-competitive conduct.

23 253. Upon information and belief, Vernal repeatedly made statements from 2012 on  
24 that he knew to be false at the time he made them. Upon information and belief, Vernal intended  
25 for Developers like 643 to rely on such statements in order to induce them to generate revenues  
26 for Facebook and to avoid public relations and or legal ramifications for Vernal's malicious,  
27 oppressive, fraudulent, reckless, negligent and/or anti-competitive conduct.

254. Upon information and belief, Sukhar repeatedly made statements from 2012 on that he knew to be false at the time he made them. Upon information and belief, Sukhar intended for Developers like 643 to rely on such statements in order to induce them to generate revenues for Facebook and to avoid public relations and or legal ramifications for Sukhar's malicious, oppressive, fraudulent, reckless, negligent and/or anti-competitive conduct.

255. Facebook's duty to speak truthfully and to disclose material information concerning the closing of access to data also arose from partial disclosures of fact and misinformation made to 643 and other Developers concerning the allegedly fair and equal access to data.

256. Zuckerberg's decision to close 643's access to APIs in 2012 was material information that was not disclosed to 643. Had Facebook disclosed this material information to 643, 643 would never have made an investment in the App, and would not have continued to invest in the App. Had Zuckerberg not intentionally misrepresented a host of material facts related to Facebook Platform and related to Zuckerberg's decision to restrict access to the most valuable information in Facebook Platform, 643 would never have made an investment in the App, and would not have continued to invest in the App.

257. Further, upon information and belief, the Conspiring Facebook Executives, upon Zuckerberg's personal instruction, engaged in a scheme from 2012 until 2015 to intentionally misrepresent critical facts about Facebook Platform and about Zuckerberg's decision to restrict data access on Facebook Platform. If Facebook, Zuckerberg and the Conspiring Facebook Executives had not engaged in this scheme to require dozens of employees to intentionally misrepresent material facts, 643 would never have made an investment in the App, and would not have continued to invest in the App.

258. Even when Zuckerberg announced the purported closing of the data on April 30, 2014, an event 643 did not attend, Zuckerberg still intentionally misrepresented his decision to restrict data access for widely used data in Graph API and only partially revealed material facts while suppressing others, resulting in further investment from 643 and many other companies.

1 Upon information and belief, the Conspiring Facebook Executives actively participated, ratified,  
2 served as agents and communicated key components of this intentional misrepresentation in  
3 Zuckerberg's announcement.

4 259. Facebook, Zuckerberg and the Conspiring Facebook Executives made these  
5 representations in order to induce Developers to build applications that generate revenue for  
6 Facebook and to avoid public relations and legal ramifications for their fraudulent, malicious,  
7 oppressive and anti-competitive conduct. The Conspiring Facebook Executives participated,  
8 ratified and/or served as agents of Facebook in connection with their material omissions and their  
9 actions to conceal material facts from Plaintiff and tens of thousands of other Developers.

10 260. Facebook, Zuckerberg and the Conspiring Facebook Executives benefited  
11 materially from their fraudulent, malicious and oppressive conduct, including but not limited to  
12 financial benefits tied to the growth of Facebook and the dramatic reversal of its stock price as a  
13 result of oligopolizing for Facebook and its close partners the various markets associated with  
14 Facebook Platform.

15 261. 643 invested considerable capital, labor, time and effort into developing its  
16 technology in reliance on Facebook's representations.

17 262. 643's reliance was reasonable because Facebook had consistently made public  
18 representations as to equal access and a fair playing field in Facebook Platform for seven years  
19 and tens of thousands of other Developers also relied on these representations.

20 263. 643's reliance was foreseeable by Facebook, Zuckerberg and the Conspiring  
21 Facebook Executives as Zuckerberg has publicly stated his intent in making such statements was  
22 to entice Developers to help generate revenues for Facebook. Further, Facebook's conduct for  
23 seven years was designed to induce and reinforce such reliance.

24 264. 643 was injured as a result of its reliance on Facebook's representations and  
25 material omissions, which Facebook knew to be false or acted recklessly in representing as true,  
26 in an unascertained amount in excess of \$25,000.00, to be established according to proof at trial.



1 In taking the actions alleged herein, Facebook, Zuckerberg and the Conspiring Facebook  
2 Executives acted with fraud, malice and oppression, and in reckless disregard of the rights of 643.

3 265. Accordingly, Defendants are liable to 643 for damages.

4 **COUNT V: NEGLIGENT MISREPRESENTATION**  
5 **[Against all Defendants]**

6 266. 643 re-alleges and repleads paragraphs 1 through 248 and 255 through 265 as  
7 though set forth fully herein.

8 267. Facebook represented that:

- 9 a. Developers would be able to integrate their applications into Facebook's social  
10 graph;
- 11 b. Developers would have the same access to integration of their applications as  
12 Facebook;
- 13 c. Developers could easily access Graph API objects;
- 14 d. Facebook would support Developers in achieving mass distribution of Developer  
15 applications;
- 16 e. Facebook would provide adequate tools for developers to build their applications;
- 17 f. Developers would be able to build a business on Facebook Platform;
- 18 g. Developers would be able to monetize their applications on Facebook by selling  
19 ads on their application pages;
- 20 h. Developers would be able to build applications on a fair, level playing field;
- 21 i. Developer applications would not be "second class citizens" compared to  
22 Facebook's own applications;
- 23 j. Developer applications that compete with Facebook applications would be  
24 welcome; and
- 25 k. As long as Developer applications abided by Facebook Terms of Service,  
26 Facebook will be neutral as to these applications.

27 268. Such representations were untrue, because Facebook later claimed that it had  
28 retained for itself the right to provide Graph API data on unequal and arbitrary terms, while  
keeping for itself and its close partners the ability to develop applications that access photos and  
other valuable data.

269. Regardless of its actual belief, Facebook, Zuckerberg and the Conspiring Facebook Executives must have made those representations without any reasonable ground for believing the representations to be true.

270. Facebook, Zuckerberg and the Conspiring Facebook Executives conveyed the representations in a commercial setting for a business purpose, namely inducing Developers to develop applications for Facebook.

271. Facebook, Zuckerberg and the Conspiring Facebook Executives made those representations with the intent to induce Developers, including 643, to develop applications, including the App, that used Graph API data, thereby adding features to Facebook, enhancing Facebook's functionality and user experience, and generating more revenue for Facebook.

272. Upon information and belief, Cox repeatedly made statements from 2012 on without any reasonable grounds for believing the representations to be true. Upon information and belief, Cox intended for Developers like 643 to rely on such statements in order to induce them to generate revenues for Facebook and to avoid public relations and or legal ramifications for Cox's malicious, oppressive, fraudulent, reckless, negligent and/or anti-competitive conduct.

273. Upon information and belief, Olivan repeatedly made statements from 2012 on without any reasonable grounds for believing the representations to be true. Upon information and belief, Olivan intended for Developers like 643 to rely on such statements in order to induce them to generate revenues for Facebook and to avoid public relations and or legal ramifications for Olivan's malicious, oppressive, fraudulent, reckless, negligent and/or anti-competitive conduct.

274. Upon information and belief, Lessin repeatedly made statements from 2012 on without any reasonable grounds for believing the representations to be true. Upon information and belief, Lessin intended for Developers like 643 to rely on such statements in order to induce them to generate revenues for Facebook and to avoid public relations and or legal ramifications for Lessin's malicious, oppressive, fraudulent, reckless, negligent and/or anti-competitive conduct.

1           275. Upon information and belief, Vernal repeatedly made statements from 2012 on  
2 without any reasonable grounds for believing the representations to be true. Upon information  
3 and belief, Vernal intended for Developers like 643 to rely on such statements in order to induce  
4 them to generate revenues for Facebook and to avoid public relations and or legal ramifications  
5 for Vernal's malicious, oppressive, fraudulent, reckless, negligent and/or anti-competitive  
6 conduct.

7           276. Upon information and belief, Sukhar repeatedly made statements from 2012 on  
8 without any reasonable grounds for believing the representations to be true. Upon information  
9 and belief, Sukhar intended for Developers like 643 to rely on such statements in order to induce  
10 them to generate revenues for Facebook and to avoid public relations and or legal ramifications  
11 for Sukhar's malicious, oppressive, fraudulent, reckless, negligent and/or anti-competitive  
12 conduct.

13           277. 643 was not aware that Facebook and the Conspiring Facebook Executives'  
14 representations were false, and 643 developed its technology in reliance on the truth of  
15 Facebook's representations.

16           278. 643's reliance on the truth of Facebook's representations was justified because  
17 Facebook had consistently made these representations for seven years without ever stating that it  
18 could prevent Developers from building the specific kinds of applications Facebook was enticing  
19 them to build all along.

20           279. 643 was injured as a result of its reliance on Facebook's representations, in an  
21 unascertained amount in excess of \$25,000.00, to be established according to proof at trial.

22           280. In taking the actions alleged herein, Facebook, Zuckerberg and the Conspiring  
23 Facebook Executives acted with fraud, malice and oppression, and in reckless disregard of the  
24 rights of 643.

25           281. Accordingly, Defendants are liable to 643 for damages.  
26  
27  
28

1                   **COUNT VI: INTENTIONAL INTERFERENCE WITH CONTRACT**

2                   **[Against all Defendants]**

3           282.   643 re-alleges and repleads paragraphs 1 through 282 as though set forth fully  
4 herein.

5           283.   643 had entered into license agreements and subscriptions for premium access  
6 with its users.

7           284.   Facebook, Zuckerberg and the Conspiring Facebook Executives knew of these  
8 license agreements and subscriptions.

9           285.   Facebook, Zuckerberg and the Conspiring Facebook Executives intentionally  
10 interfered with and disrupted these contracts when it notified 643 on January 20, 2015 that it  
11 would end 643's access to Graph API data on April 30, 2015, despite knowing that interference  
12 with these contracts would be certain or substantially certain to occur as a result of Facebook's  
13 act in ending 643's access.

14           286.   Facebook, Zuckerberg and the Conspiring Facebook Executives further  
15 intentionally interfered with and disrupted 643's contracts with its users when it did terminate  
16 643's access to Graph API data on April 30, 2015, despite knowing that interference with these  
17 contracts would be certain or substantially certain to occur as a result of Facebook's act in ending  
18 643's access.

19           287.   643's contract with its users was thereby disrupted by Facebook, Zuckerberg and  
20 the Conspiring Facebook Executives.

21           288.   As a result, 643 has suffered and will suffer damage in an unascertained amount in  
22 excess of \$25,000.00 to be established according to proof at trial.

23           289.   In taking the actions alleged herein, Facebook, Zuckerberg and the Conspiring  
24 Facebook Executives acted with fraud, malice and oppression, and in reckless disregard of the  
25 rights of 643.

26           290.   Accordingly, Defendants are liable to 643 for damages.  
27  
28



**COUNT VII: INTENTIONAL INTERFERENCE WITH  
PROSPECTIVE ECONOMIC RELATIONS  
[Against Defendants Zuckerberg, Cox, Olivan, Lessin, Vernal and Sukhar]**

291. 643 re-alleges and repleads paragraphs 1 through 290 as though set forth fully herein.

292. 643 had an expectation of economic benefit from its 4,481 users who downloaded the App and entered into 643's license agreements. 643 had an existing relationship with these users and at any time these users could open the App on their phones and tap a button to subscribe to additional features that would result in additional monthly payments to 643. The potential for these additional monthly payments went above and beyond the terms of the basic license to which 643 and the user had agreed, and therefore constitute prospective economic relations. The existence of the license agreement between 643 and these 4,481 users demonstrates that they had an existing relationship, and the opportunity for these users to opt-in to pay additional monies to 643 demonstrates that 643 had a reasonable and objective expectation of prospective economic relations with these users with whom it had an existing relationship. 643's contract structure was tiered, so that consumers who entered into a basic contract with 643 at any time could upgrade their contract to obtain additional features and pay 643 additional monies. Therefore, 643 had an expectation of economic relations with its existing user base above and beyond the terms of their existing contract. 643 had an expectation of economic benefit from the approximately 6,000 qualified prospective customers who opted in to the App's website by proactively going to the website and inserting their email address in order to be notified of the public launch of the App. 643 had an existing relationship with these qualified prospective users since they signed up and joined the App's website and became subject to the App's website's terms and conditions. 643 did not have a contract with many of these users who never downloaded the App. 643 had plans to send additional emails to these 6,000 users to convert them into license agreements with 643 that would have resulted in monthly payments from these users to 643. The decision of these qualified prospective customers to join the App's website and become subject to its terms and conditions demonstrates 643 had an existing relationship with these consumers and a reasonable

1 and objective expectation of prospective economic relations since these qualified prospective  
2 customers explicitly took action to indicate they would enter into contract with 643 when 643  
3 notified them of the opportunity to do so. 643 did not have the opportunity to convert all of these  
4 qualified prospective customers as a direct result of Facebook's conduct.

5 293. Based upon research 643 conducted regarding user personas likely to download its  
6 App, 643 hired at significant expense over 20 contractors to identify consumers likely to enter  
7 into license agreements with 643. These consumers converted into qualified prospective  
8 customers at a statistically significant and repeatable average rate of 6%, well above industry  
9 norms. Approximately 13,000 of these consumers had not yet been contacted by 643. Given the  
10 expense 643 undertook to identify and target prospective customers, and the high and repeatable  
11 rate of conversion, 643 had an objective and reasonable expectation of prospective economic  
12 relations with these prospective customers.

13 294. 643 purchased advertising campaigns on Facebook using Facebook's mobile App  
14 Install Ad product. These advertisements purchased by 643 potentially reached hundreds of  
15 thousands of Facebook users, a portion of which entered into license agreements with 643. 643  
16 had an objective and reasonable expectation of prospective economic relations from prospective  
17 customers to whom it targeted in these advertising campaigns and in future advertising campaigns  
18 643 planned to administer.

19 295. Upon information and belief, around the time Zuckerberg made the decision to  
20 implement Facebook's anti-competitive scheme in 2012, Facebook was experiencing substantial  
21 difficulty transitioning its service from desktop computers to mobile devices. The executive team  
22 was extremely concerned around the impact this transition would have on Facebook's revenues,  
23 particularly in light of the fact that Facebook was planning an initial public offering (IPO) of its  
24 shares around this time. In discussions in 2011 and 2012, Zuckerberg and other members of  
25 Facebook's management team, including Lessin, Olivan, Cox, Sandberg, and Bosworth, decided  
26 to remove any APIs in Facebook Platform that permitted mobile apps to obtain organic growth,  
27 including the Graph API Data. Organic growth enabled an app to acquire new users without  
28



1 having to purchase advertising. Facebook built features like the newsfeed APIs and full friends  
2 list in order to drive organic growth for Developers and represented for many years that organic  
3 growth was a key reason a developer should build its business on Facebook Platform. Organic  
4 growth was primarily achieved through the newsfeed APIs and full friends list, because these  
5 APIs let potential new users of an app learn about and download the app from existing users  
6 without the app needing to purchase advertisements to reach that new user. Upon information and  
7 belief, Zuckerberg decided to implement the anti-competitive scheme in 2012 not only to restrain  
8 competition to make way for new Facebook products but also to hold hostage the tens of  
9 thousands of companies that relied on Facebook Platform for organic growth. By eliminating the  
10 full friend list, friend permissions and newsfeed APIs, Zuckerberg placed tens of thousands of  
11 companies in an impossible position: either spend hundreds of thousands of dollars each year  
12 buying ads with Facebook's new mobile advertising product or shut down the product or  
13 business. For companies who could afford it, the choice was clear: give in to Zuckerberg's  
14 demands, pony up the cash, and stay in business. Based in significant part upon the  
15 representations Facebook made from 2007 until 2014 that Facebook Platform was the most  
16 effective organic growth and distribution channel for applications, 643 decided to build its  
17 business on Facebook Platform because Facebook represented that any friends of 643's users  
18 were qualified prospective customers who could enter into license agreements with 643 with a  
19 single click or tap on a notification from a friend or a post in their newsfeed. There were  
20 approximately 100,000 Facebook users who were friends of the 4,481 customers of 643, any of  
21 whom Facebook represented repeatedly for 7 years could enter into license agreements with 643  
22 seamlessly and easily with a single click or tap. In a survey of test users of the App, 75% of users  
23 said they were likely to recommend the App to a friend, with 40% saying they already had  
24 recommended the App to a friend. All of these friends who had received recommendations from  
25 existing users to download the App were prospective customers with whom 643 could now  
26 classify as qualified leads. Therefore, 643 had an objective and reasonable expectation of  
27 prospective economic relations with these prospective customers and Zuckerberg interfered with

1 643's prospective economic advantage with these customers when he decided to shut down all  
2 organic growth and distribution channels in 2012, before 643 was formed as a Delaware limited  
3 liability company.

4 296. 643 thus had relationships with the following categories of consumers: its test  
5 users (4,481 consumers), qualified prospective customers (6,000 consumers), prospective  
6 customers (13,000 consumers), Facebook friends of customers (100,000 consumers), and  
7 Facebook users who received 643's test advertisements (tens of thousands of consumers). In the  
8 absence of Facebook's bait-and-switch scheme, 643 would have obtained future economic benefit  
9 above and beyond its current contracts in all of these categories of consumers.

10 297. The conduct of Zuckerberg and the Conspiring Facebook Executives was wrongful  
11 on a number of independent grounds, including violation of California's Unfair Competition law  
12 (including violation of the FTC Order), and the common law causes of action for intentional  
13 misrepresentation, negligent misrepresentation, and concealment.

14 298. Zuckerberg and the Conspiring Facebook Executives knew of 643's relationship  
15 with the users or prospective users of the App, and knew or should have known of 643's  
16 marketing and advertising tests of the App and its plans to grow the App both organically and  
17 through participating in Facebook's mobile advertising product.

18 299. Zuckerberg and the Conspiring Facebook Executives intentionally disrupted these  
19 relationships when they decided in 2012 to privatize Graph API Data. From that moment on,  
20 643's business was operating on borrowed time with no possibility of obtaining economic  
21 advantage with prospective customers and yet 643 had no way of knowing this was the case.

22 300. Zuckerberg and the Conspiring Facebook Executives intentionally disrupted these  
23 relationships when they decided throughout 2012 and 2013 to fail to provide proper privacy  
24 controls for information Facebook sent to 643, requiring 643 to build its own controls at  
25 significant cost notwithstanding that Facebook made partial disclosures implying that it handled  
26 this user data properly.

1           301.   Zuckerberg and the Conspiring Facebook Executives intentionally disrupted 643's  
2 relationships with users and prospective users when they emailed 643 on January 20, 2015 that  
3 Facebook would end 643's access to Graph API Data, despite knowing that interference with  
4 these relationships would be certain or substantially certain to occur as a result of Facebook's act  
5 in ending 643's access.

6           302.   Zuckerberg and the Conspiring Facebook Executives further intentionally  
7 interfered with and disrupted 643's relationships with its users and prospective users when it did  
8 terminate 643's access on April 30, 2015, despite knowing that interference with these  
9 relationships would be certain or substantially certain to occur as a result of Facebook's conduct  
10 in ending 643's access.

11           303.   643's relationship with its users and prospective users was thereby disrupted, and  
12 will be further disrupted.

13           304.   As a result, 643 suffered damage in an unascertained amount in excess of  
14 \$25,000.00 to be established according to proof at trial.

15           305.   In taking the actions alleged herein, Zuckerberg and the Conspiring Facebook  
16 Executives acted with fraud, malice and oppression, and in reckless disregard of the rights of 643.

17           306.   Accordingly, Defendants Zuckerberg, Cox, Olivan, Lessin, Vernal and Sukhar are  
18 liable to 643 for damages.

19                   **COUNT VIII: NEGLIGENT INTERFERENCE WITH**  
20                   **PROSPECTIVE ECONOMIC RELATIONS**  
21                   **[Against Defendants Zuckerberg, Cox, Olivan, Lessin, Vernal and Sukhar]**

22           307.   643 re-alleges and repleads paragraphs 1 through 298 and 303 through 306 as  
23 though set forth fully herein.

24           308.   643 had an expectation of economic benefit from its 4,481 users who downloaded  
25 the App and entered into 643's license agreements. 643 had an existing relationship with these  
26 users and at any time these users could open the App on their phones and tap a button to subscribe  
27 to additional features that would result in additional monthly payments to 643. The potential for  
28 these additional monthly payments went above and beyond the terms of the basic license to which

1 643 and the user had agreed, and therefore constitute prospective economic relations. The  
2 existence of the license agreement between 643 and these 4,481 users demonstrates that they had  
3 an existing relationship, and the opportunity for these users to opt-in to pay additional monies to  
4 643 demonstrates that 643 had a reasonable and objective expectation of prospective economic  
5 relations with these users with whom it had an existing relationship. 643's contract structure was  
6 tiered, so that consumers who entered into a basic contract with 643 at any time could upgrade  
7 their contract to obtain additional features and pay 643 additional monies. Therefore, 643 had an  
8 expectation of economic relations with its existing user base above and beyond the terms of their  
9 existing contract. 643 had an expectation of economic benefit from the approximately 6,000  
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11 website and inserting their email address in order to be notified of the public launch of the App.  
12 643 had an existing relationship with these qualified prospective users since they signed up and  
13 joined the App's website and became subject to the App's website's terms and conditions. 643  
14 did not have a contract with many of these users who never downloaded the App. 643 had plans  
15 to send additional emails to these 6,000 users to convert them into license agreements with 643  
16 that would have resulted in monthly payments from these users to 643. The decision of these  
17 qualified prospective customers to join the App's website and become subject to its terms and  
18 conditions demonstrates 643 had an existing relationship with these consumers and a reasonable  
19 and objective expectation of prospective economic relations since these qualified prospective  
20 customers explicitly took action to indicate they would enter into contract with 643 when 643  
21 notified them of the opportunity to do so. 643 did not have the opportunity to convert all of these  
22 qualified prospective customers as a direct result of Facebook's conduct.

23 309. Based upon research 643 conducted regarding user personas likely to download its  
24 App, 643 hired at significant expense over 20 contractors to identify consumers likely to enter  
25 into license agreements with 643. These consumers converted into qualified prospective  
26 customers at a statistically significant and repeatable average rate of 6%, well above industry  
27 norms. Approximately 13,000 of these consumers had not yet been contacted by 643. Given the  
28



1 expense 643 undertook to identify and target prospective customers, and the high and repeatable  
2 rate of conversion, 643 had an objective and reasonable expectation of prospective economic  
3 relations with these prospective customers.

4 310. 643 purchased advertising campaigns on Facebook using Facebook's mobile App  
5 Install Ad product. These advertisements purchased by 643 potentially reached hundreds of  
6 thousands of Facebook users, a portion of which entered into license agreements with 643. 643  
7 had an objective and reasonable expectation of prospective economic relations from prospective  
8 customers to whom it targeted in these advertising campaigns and in future advertising campaigns  
9 643 planned to administer.

10 311. Upon information and belief, around the time Zuckerberg made the decision to  
11 implement Facebook's anti-competitive scheme in 2012, Facebook was experiencing substantial  
12 difficulty transitioning its service from desktop computers to mobile devices. The executive team  
13 was extremely concerned around the impact this transition would have on Facebook's revenues,  
14 particularly in light of the fact that Facebook was planning an initial public offering (IPO) of its  
15 shares around this time. In discussions in 2011 and 2012, Zuckerberg and other members of  
16 Facebook's management team, including Lessin, Olivan, Cox, Sandberg, and Bosworth, decided  
17 to remove any APIs in Facebook Platform that permitted mobile apps to obtain organic growth,  
18 including the Graph API Data. Organic growth enabled an app to acquire new users without  
19 having to purchase advertising. Facebook built features like the newsfeed APIs and full friends  
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25 belief, Zuckerberg decided to implement the anti-competitive scheme in 2012 not only to restrain  
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1 full friend list, friend permissions and newsfeed APIs, Zuckerberg placed tens of thousands of  
2 companies in an impossible position: either spend hundreds of thousands of dollars each year  
3 buying ads with Facebook's new mobile advertising product or shut down the product or  
4 business. For companies who could afford it, the choice was clear: give in to Zuckerberg's  
5 demands, pony up the cash, and stay in business. Based in significant part upon the  
6 representations Facebook made from 2007 until 2014 that Facebook Platform was the most  
7 effective organic growth and distribution channel for applications, 643 decided to build its  
8 business on Facebook Platform because Facebook represented that any friends of 643's users  
9 were qualified prospective customers who could enter into license agreements with 643 with a  
10 single click or tap on a notification from a friend or a post in their newsfeed. There were  
11 approximately 100,000 Facebook users who were friends of the 4,481 customers of 643, any of  
12 whom Facebook represented repeatedly for 7 years could enter into license agreements with 643  
13 seamlessly and easily with a single click or tap. In a survey of test users of the App, 75% of users  
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15 recommended the App to a friend. All of these friends who had received recommendations from  
16 existing users to download the App were prospective customers with whom 643 could now  
17 classify as qualified leads. Therefore, 643 had an objective and reasonable expectation of  
18 prospective economic relations with these prospective customers and Zuckerberg interfered with  
19 643's prospective economic advantage with these customers when he decided to shut down all  
20 organic growth and distribution channels in 2012, before 643 was formed as a Delaware limited  
21 liability company.

22         312. 643 thus had relationships with the following categories of consumers: its test  
23 users (4,481 consumers), qualified prospective customers (6,000 consumers), prospective  
24 customers (13,000 consumers), Facebook friends of customers (100,000 consumers), and  
25 Facebook users who received 643's test advertisements (tens of thousands of consumers). In the  
26 absence of Facebook's bait-and-switch scheme, 643 would have obtained future economic benefit  
27 above and beyond its current contracts in all of these categories of consumers.



313. The conduct of Zuckerberg and the Conspiring Facebook Executives was wrongful on a number of independent grounds, including violation of California's Unfair Competition law (including violation of the FTC Order), and the common law causes of action for intentional misrepresentation, negligent misrepresentation, and concealment.

314. Zuckerberg and the Conspiring Facebook Executives knew of 643's relationship with the users or prospective users of the App, and knew or should have known of 643's marketing and advertising tests of the App and its plans to grow the App both organically and through participating in Facebook's mobile advertising product.

315. Zuckerberg and the Conspiring Facebook Executives negligently disrupted these relationships when they decided in 2012 to privatize Graph API Data. From that moment on, 643's business was operating on borrowed time with no possibility of obtaining economic advantage with prospective customers and yet 643 had no way of knowing this was the case.

316. Zuckerberg and the Conspiring Facebook Executives negligently disrupted these relationships when they decided throughout 2012 and 2013 to fail to provide proper privacy controls for information Facebook sent to 643, requiring 643 to build its own controls at significant cost notwithstanding that Facebook made partial disclosures implying that it handled this user data properly.

317. Zuckerberg and the Conspiring Facebook Executives negligently disrupted 643's relationships with users and prospective users when they emailed 643 on January 20, 2015 that Facebook would end 643's access to Graph API Data, despite knowing that interference with these relationships would be certain or substantially certain to occur as a result of Facebook's act in ending 643's access.

318. Zuckerberg and the Conspiring Facebook Executives further negligently interfered with and disrupted 643's relationships with its users and prospective users when it did terminate 643's access on April 30, 2015, despite knowing that interference with these relationships would be certain or substantially certain to occur as a result of Facebook's conduct in ending 643's access.

1           319.    Zuckerberg and the Conspiring Facebook Executives knew or should have known  
2 that this relationship would be disrupted if they failed to act with reasonable care.

3           320.    Zuckerberg and the Conspiring Facebook Executives failed to act with reasonable  
4 care by engaging in reckless, negligent, malicious, fraudulent and/or oppressive conduct.

5           321.    643's relationship with its users and prospective users was thereby disrupted, and  
6 will be further disrupted.

7           322.    As a result, 643 suffered damage in an unascertained amount in excess of  
8 \$25,000.00 to be established according to proof at trial.

9           323.    In taking the actions alleged herein, Zuckerberg and the Conspiring Facebook  
10 Executives acted with fraud, malice and oppression, and in reckless disregard of the rights of 643.

11          324.    Accordingly, Defendants Zuckerberg, Cox, Olivan, Lessin, Vernal and Sukhar are  
12 liable to 643 for damages.

13                                   **JURY TRIAL DEMAND**

14                               643 demands a trial by jury on all claims so triable.

15                                   **PRAYER FOR RELIEF**

16          WHEREFORE, Plaintiff 643 asks this Court to enter judgment against Defendants  
17 Facebook, Inc., Mark Zuckerberg, Christopher Cox, Javier Olivan, Samuel Lessin, Michael  
18 Vernal and Ilya Sukhar as follows:

- 19           A. A judgment or order declaring Defendants' conduct, as alleged, unlawful under  
20 California's Unfair Business Practices Act;
- 21           B. A judgment or order declaring that Facebook's conduct, as alleged, constitutes  
22 breach of contract;
- 23           C. A judgment or order declaring that Defendants' conduct, as alleged, constitutes  
24 concealment;
- 25           D. A judgment or order declaring that Defendants' conduct, as alleged, constitutes  
26 intentional misrepresentation;
- 27

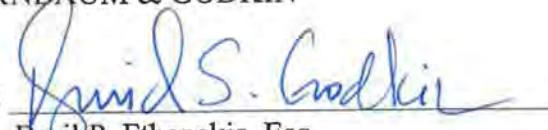
- 1 E. A judgment or order declaring that Defendants' conduct, as alleged, constitutes  
2 negligent misrepresentation;
- 3 F. A judgment or order declaring that Defendants' conduct, as alleged, constitutes  
4 intentional interference with contract;
- 5 G. A judgment or order declaring that the conduct of Defendants Zuckerberg, Cox,  
6 Olivan, Lessin, Vernal and Sukhar as alleged, constitutes intentional interference  
7 with prospective economic relations;
- 8 H. A judgment or order declaring that the conduct of Defendants Zuckerberg, Cox,  
9 Olivan, Lessin, Vernal and Sukhar, as alleged, constitutes negligent interference  
10 with prospective business relations.
- 11 I. A judgment, order, or award of damages adequate to compensate 643;
- 12 J. A permanent injunction requiring Facebook to restore Developer access to the  
13 Graph API data, including reading the full friends list, friends permissions and  
14 newsfeed APIs, and all other data and APIs available prior to Facebook's removal  
15 of the APIs on April 30, 2015;
- 16 K. A permanent injunction prohibiting Defendants Zuckerberg, Cox and Olivan from  
17 interfering with 643's contracts;
- 18 L. A permanent injunction prohibiting Defendants Zuckerberg, Cox and Olivan from  
19 interfering with 643's prospective economic relations;
- 20 M. An award of 643's reasonable attorneys' fees and costs;
- 21 N. Punitive damages and/or treble damages as provided by applicable law; and
- 22 O. Such other further relief as this Court or a jury may deem proper and just.
- 23  
24  
25  
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27  
28

1 DATED: January 12, 2018

CRITERION LAW

2 BIRNBAUM & GODKIN

3  
4 By:

  
Basil P. Fthenakis, Esq.  
David S. Godkin (admitted *pro hac vice*)  
James E. Kruzer (admitted *pro hac vice*)  
Attorneys for Plaintiff  
Six4Three, LLC



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**PROOF OF SERVICE**

I, Cheryl A. McDuffee, declare:

I am a citizen of the United States and employed in Suffolk County, Massachusetts. I am over the age of eighteen years and not a party to the within-entitled action. My business address is 280 Summer Street, Boston, MA 02210. On January 12, 2018, I served a copy of the within document(s):

**PLAINTIFF'S FIFTH AMENDED COMPLAINT FOR INJUNCTION AND DAMAGES**

☒ by electronic service, per the agreement of the parties, by emailing a true and correct copy through counsel's email address to Defendant's counsel of record at the email addresses set forth below.

**VIA EMAIL ONLY**

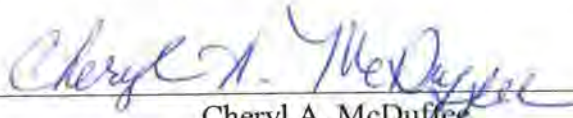
Joshua Lerner (jlerner@durietangri.com)  
Sonal N. Mehta (SMehta@durietangri.com)  
Laura Miller (LMiller@durietangri.com)  
Catherine Kim (ckim@durietangri.com)  
Durie Tangri (Service-Six4Three@durietangri.com)  
217 Leidesdorff Street  
San Francisco, CA 94111  
P (415) 376 - 6427  
Attorney for Defendant  
FACEBOOK, INC.

**VIA EMAIL ONLY**

Judge's Copy  
Department 2  
Superior Court of California, County of San Mateo  
400 County Center, Courtroom 2E  
Redwood City, CA 94063

I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Executed January 12, 2018, at Boston, Massachusetts.

  
Cheryl A. McDuffee

# **EXHIBIT 1**





## f8 Event and Facebook Platform FAQ

### **What is f8?**

f8 was an event held at the San Francisco Design Center on May 24, 2007, during which Mark Zuckerberg unveiled the next evolution of Facebook Platform. The event included an eight-hour "hackathon," where both Facebook engineers and outside developers collaborated on building new applications on the new Facebook Platform.

### **What is a "hackathon"?**

A hackathon is an all-night coding event during which Facebook engineers work on any project that interests them. Facebook uses the word "hackathon" to refer to a gathering of engineers, who possess technical expertise and collaborate on innovative projects. Facebook has a tradition of holding frequent developer hackathons, which have spawned some of the most popular features and applications on the site.

### **What is Facebook Platform?**

Facebook Platform is a development system that enables companies and developers to build applications for the Facebook website, where all of Facebook's 24 million active users can interact with them. Facebook Platform offers deep integration into the Facebook website, distribution through the social graph and an opportunity to build a business.

### **What is the social graph?**

The social graph is at the core of Facebook. It is the network of connections and relationships between people on Facebook and enables the efficient spreading and filtering of information. Just as people share information with their friends and the people around them in the real world, these connections are reflected online in the Facebook social graph.

### **What is a Facebook application?**

A Facebook application uses Facebook Platform to access information from the social graph, offering users an experience that's relevant to them. Facebook applications can plug into the Facebook website in a number of ways: applications can be embedded on users' profile pages, reside on their own separate pages (called "canvas" pages), or live through desktop applications using data from the Facebook social graph.

### **What's new in Facebook Platform?**

We've been adding functionality since Facebook Platform first shipped in beta in August 2006. With the latest evolution of Facebook Platform however, third-party developers can now create applications on the Facebook site with the same level of integration as applications built by internal Facebook developers. Now developers everywhere have the ability to create Facebook applications that deeply integrate into the Facebook site, as well as the potential for mass distribution through the social graph and new business opportunities.

### **Why did Facebook launch Facebook Platform?**

Our engineers have created great applications for Facebook, but we recognized that third-party developers can help us make Facebook an even more powerful social utility. Facebook Platform gives developers everywhere the tools to create applications that we just wouldn't have the resources to build in-house, and those applications make Facebook an even better way for our users to exchange information. Developers also benefit from Facebook Platform as it gives them the potential to broadly distribute their applications and even build new business opportunities.

### **What kinds of applications can be built on Facebook Platform?**

The kinds of applications developers can build on Facebook Platform are limited only by their imaginations. Because applications are based on the Facebook social graph they can be more relevant to users, keeping people in touch with what and whom they care about. We've already seen a variety of applications built by our developer partners, including those for sharing media files, book reviews, slideshows and more. Some of the



possibilities of Facebook applications are illustrated in the Facebook Platform Application Directory, available at <http://www.facebook.com/apps>.

**Are there any restrictions on what developers can build?**

Developers are encouraged to exercise their creativity when building applications. Of course, all applications are subject to the Terms of Service that every developer agrees to, which include basic requirements such as not storing any sensitive user information, not creating any offensive or illegal applications, and not building anything that phishes or spams users. And users will always have the power to report any applications that compromise Facebook's trusted environment, keeping our users' information safe.

**What are the benefits of Facebook Platform for users?**

With Facebook Platform, users gain the ability to define their experience on Facebook by choosing applications that are useful and relevant to them. Now that they have access to a virtually limitless set of applications from outside developers, users have an unprecedented amount of choice. They can share information and communicate with their trusted connections in ways that would never have been possible before Facebook opened its platform.

**How do users add applications to and remove applications from their account?**

If a user sees an application she likes on a friend's profile, she can add it to her account by clicking the "Add" link on the application's profile box. She can also add new applications by navigating to the application's specific page in the Facebook Platform Application Directory and clicking "Add Application" in the top-right corner. To remove an application, she first clicks "Applications" on the left navigation bar. From there, she can "Remove" any of the applications in her account, whether they are built by a developer partner or by Facebook.

**What are the privacy controls for Facebook Platform, and what kind of user information can be shared?**

On Facebook, users are always in control of their information and can choose how much of their information is made available to specific applications. With Facebook Platform, we're offering additional privacy controls and requiring that third parties treat user information with the same respect we do—and our users have come to expect. Users can also choose to completely opt out of making their data available through Facebook Platform. Applications can never violate users' basic privacy settings and are meant to provide users with a better opportunity to share their information with their friends and networks.

**What do third-party applications do with user information?**

Applications built by third parties are required to respect Facebook users' privacy preferences. Third-party applications allow users and their friends to share information in new ways, without affecting the security and privacy that they've always enjoyed on Facebook.

**How many applications are there for Facebook Platform?**

At f8, we are launching with over 85 applications from more than 65 developer partners, and that's only the beginning. We're encouraging interested developers everywhere to create Facebook applications. We have no limits on the number of applications that can be created.

**What differentiates Facebook applications from widgets on other sites?**

Facebook applications are deeply integrated into the site and take advantage of the network of real connections through which users share information and communicate—what we call the "social graph." Widgets are typically single-purpose Flash add-ons to a web page (i.e., displaying a single video) that are not fully integrated into a site nor are aware of the social context among users.

**How will Facebook maintain its minimalist style if users can add and move applications around on their profile?**

We're giving our users the choice to add applications and control their placement in their profiles, but we're not changing the essential layout and familiar style of the Facebook site. Facebook applications are focused on providing new ways to spread information on Facebook, not about redesigning the way a profile looks. For example, users will not be able to change the site background, add music that plays when their profiles load, or



insert animation into their profiles. Individual applications may play media, music or animations but only when a visitor to that profile interacts with them.

**How will Facebook deal with applications that compete with one another or even compete with Facebook-built applications?**

We welcome developers with competing applications, including developers whose applications might compete with Facebook-built applications. Many applications are likely to offer similar features. We've designed Facebook Platform so that applications from third-party developers are on a level playing field with applications built by Facebook. Ultimately, our users will decide which applications they find most useful, and it is these applications that will become the most popular.

**How will Facebook monetize Facebook Platform?**

All the great applications built by our developer partners provide a service to our users and strengthen the social graph. The result is even more engaged Facebook users creating more advertising opportunities.

**Can Facebook applications include ads?**

We want to enable developers to build a business on their Facebook applications, so we're giving developers the freedom to monetize their applications as they like. Developers can include advertising on their applications' canvas pages, though no advertising will be allowed within the application boxes that appear within user profiles.

**Are you going to share revenue with developers?**

While revenue sharing is not available at launch, we are looking into ways to share advertising revenue with developers. This version of Facebook Platform already lets developers monetize their applications as they like, whether they choose to offer it for free or build a business on their application.

**What are the key technical elements of Facebook Platform?**

Facebook Platform offers several technologies that help developers use data from the social graph. In addition to the Facebook API, this recently launched version of Facebook Platform introduces Facebook Markup Language (FBML), which enables developers to build applications that deeply integrate into the Facebook site. Facebook Platform also includes Facebook Query Language (FQL), which lets developers use a SQL-style interface to query the data they can access through the API.

For more details on the technology behind Facebook Platform, check out the Facebook Developer site at <http://developers.facebook.com>.

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# **EXHIBIT 3**

November 13, 2018

**VIA EMAIL**

David S. Godkin  
James Kruzer  
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***Contains Confidential and Highly Confidential Information***

Re: *Six4Three LLC v. Facebook, Inc.*  
Case No. 533328

Dear Counsel:

We write regarding the complaint you filed last week in a new matter, *Styleform IT v. Facebook, Inc.*, Case No. CGC 18-571075 (the “Styleform Complaint”). As you are aware, the allegations in the Styleform Complaint rely extensively on mischaracterizations of the confidential and highly confidential information that Facebook produced through discovery in *Six4Three, LLC v. Facebook, Inc.*, Case No. 533328, in direct violation of our Stipulated Protective Order in that case. Further, the Styleform Complaint publicly discloses confidential Facebook information in violation of both the Stipulated Protective Order and the San Mateo County Superior Court’s sealing orders in the *Six4Three* litigation.

As you know, paragraph 3 of our Stipulated Protective Order reads as follows:

“All Confidential Information or Highly Confidential Information produced or exchanged in the course of this Case (not including information that is publicly available) shall be used by the party or parties to whom the information is produced ***solely for the purpose of this case.*** Confidential Information or Highly Confidential Information ***shall not be used for any commercial competitive, personal, or other purpose.*** Confidential Information or Highly Confidential Information must be stored and maintained by a receiving party at a location and in a secure manner that ***ensures that access is limited to the persons authorized under this Stipulated Protective Order.***”

The Styleform Complaint violates the Stipulated Protective Order in at least two primary ways.

**First**, it is clear on the face of the Styleform Complaint that Styleform does not have any personal knowledge of the internal Facebook communications, decisions, or strategies it alleges.<sup>1</sup> Instead, it appears that, as counsel for both Six4Three and Styleform, you inappropriately shared with Styleform Facebook’s confidential and highly confidential documents produced pursuant to the Stipulated Protective Order in the *Six4Three* litigation, and then drafted a complaint that, while mischaracterizing those documents, relies on them nonetheless. That is a direct violation of our Stipulated Protective Order, which states that the confidential information produced by Facebook in the *Six4Three* litigation “shall be used by the party or parties to whom the information is produced ***solely for the purpose of this case***,” and “***shall not be used for any commercial, competitive, personal, or other purpose***.”

**Second**, in addition to the improper use of Facebook’s confidential information in drafting the Styleform Complaint, you have also disclosed certain confidential information contained in the documents Facebook produced in the *Six4Three* litigation, subject to the Stipulated Protective Order and ordered sealed by the San Mateo Superior Court. These disclosures are a direct violation of the Stipulated Protective Order and the Court’s various sealing orders, and provide additional evidence of the improper use of Facebook’s confidential documents in drafting the Styleform Complaint.

For example, Styleform alleges that “Tinder provided highly valuable unrelated financial consideration, including intellectual property, to Facebook in exchange for its special access to APIs.” Styleform Complaint ¶ 68. As we have stated on multiple occasions and as Facebook witnesses testified to under oath, this allegation is ***false*** and relies on your continued misreading of a confidential email chain produced by Facebook in the *Six4Three* litigation. Nothing in the public domain addresses this alleged transfer of intellectual property from Tinder to Facebook as consideration for special access to APIs—because no such transfer ever occurred. Furthermore, the San Mateo Court has granted multiple motions sealing the underlying document that you continue to mischaracterize and related discussions in the briefing. *See, e.g.*, November 1, 2018 Amended Order re: Motion to Seal (sealing Exhibit 97 and striking paragraph 98 of the Godkin Declaration in Support of Six4Three’s Opposition to the Individual Defendants’ Special Motion to Strike).

As another example, the Styleform Complaint alleges that Facebook paid a PR firm “almost \$50,000 a month” to “disseminate this fraudulent pro-privacy narrative.” Styleform Complaint ¶ 165. This allegation is again untrue, and appears to rely on yet another mischaracterization of a confidential document produced by Facebook in the *Six4Three* litigation. This document was similarly subject to a

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<sup>1</sup> *See* Cal. Code Civ. Proc. § 128.7(b) (“By presenting to the court, whether by signing, filing, submitting, or later advocating, a pleading, petition, written notice of motion, or other similar paper, an attorney . . . is certifying that to the best of the person’s knowledge, information, and belief, formed after an inquiry reasonable under the circumstances,” certain conditions are met, including “[t]he allegations and other factual contentions have evidentiary support or, if specifically so identified, are likely to have evidentiary support after a reasonable opportunity for further investigation or discovery.”).



November 13, 2018

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sealing order by the San Mateo Court. *See, e.g.*, January 11, 2018 Order re: Motion to seal (granting in full Facebook's January 8, 2018 Motion to Seal).

As a final example, Styleform alleges: "[I]n 2009, Facebook executives discussed backing down publicly on their promise of a level competitive playing field. They decided internally to back down on these promises, but concealed this decision from Developers, including Styleform, and continued to misrepresent Facebook Platform as a level competitive playing field." Styleform Complaint ¶ 7. As above, the only possible source for Styleform's false allegation about internal Facebook communications is your repeated mischaracterization of the confidential information that Facebook produced in the Six4Three litigation, the disclosure and use of which is barred by the Stipulated Protective Order.

Please immediately (1) withdraw the Styleform Complaint, (2) identify all documents that you relied upon in drafting the Styleform Complaint, and (3) identify all individuals and entities to whom you have disclosed Facebook's confidential information, including by providing a copy of the Styleform Complaint. Facebook reserves all rights to seek sanctions and/or other remedies in the San Mateo County Superior Court.

In light of the extreme sensitivity of this matter, please confirm your compliance no later than Thursday, November 15, 2018.

Very truly yours,

*Laura Miller*

Laura Miller

# **EXHIBIT 4**

November 15, 2018

**BY EMAIL**Laura Miller, Esq.  
Durie Tangri  
217 Leidesdorff Street  
San Francisco, CA 94111

*Re: Styleform IT v. Facebook, Inc., et al.*  
California Superior Court, San Francisco County  
Case No. CGC 18-571075

Dear Laura:

I write in response to your letter of November 13, 2018 accusing my firm and Mr. Gross's firm of violating the Protective Order in *Six4Three, LLC v. Facebook, Inc., et al.*, Case No. 533328 ("Miller Letter"). We take this accusation extremely seriously, and it is entirely without merit.

Your letter states that the Styleform Complaint relies "extensively on mischaracterizations of the confidential and highly confidential information that Facebook produced through discovery in [the Six4Three action] in direct violation of our Stipulated Protective Order in that case." Miller Letter, at 1. This is false. The allegations of the Styleform Complaint rely entirely on information in the personal knowledge of Styleform and/or information in the public domain. Your accusation that we have "inappropriately shared with Styleform Facebook's confidential and highly confidential documents" is similarly false. At no time did my firm, Mr. Gross's firm or anyone working with our firms produce to Styleform *any* confidential or highly confidential documents provided by Facebook in the Six4Three action. You have no basis for making this serious, unfounded accusation.

As a preliminary matter, the Styleform Complaint tracks the allegations of Six4Three's operative complaint, the Fifth Amended Complaint ("5AC"), filed on January 12, 2018. The complaints use virtually identical language in characterizing Defendants' conduct. The entirety of the 5AC has been public since it was filed. For almost a year now, Facebook has raised *no* concerns regarding potential violations of the Protective Order as a result of the allegations in the 5AC. Nor could Facebook do so in good faith. That Facebook has decided to make these accusations only *after* a new plaintiff has filed a complaint demonstrates quite clearly that this is a bad faith attempt to



intimidate us and our clients. That Facebook makes this accusation with unclean hands is made all the more evident from the examples you claim as “proof”.

You state as proof of your accusation that Styleform alleges “Tinder provided highly valuable unrelated financial consideration, including intellectual property, to Facebook in exchange for its special access to APIs.” Miller Letter, at 2 (Styleform Complaint, ¶ 68). You then contend that “[n]othing in the public domain addresses this alleged transfer of intellectual property from Tinder to Facebook as consideration for special access to APIs—because no such transfer ever occurred.” *Id.* This is false. The 5AC alleges:

*The Wall Street Journal* also reported in the same article that Facebook reached an unspecified compromise with dating app Tinder that permitted some form of access to photos of mutual friends. Upon information and belief, Tinder provided highly valuable unrelated financial consideration to Facebook in exchange for this special access to data. 5AC, ¶ 167.

Indeed, *The Wall Street Journal*’s reporting of Tinder’s special deal with Facebook was published on September 21, 2015, more than three years ago now.<sup>1</sup> The 5AC further alleges that “Developers were required to share their source code and other **confidential intellectual property** with Facebook at Facebook’s request” and that “the companies who were offered special, whitelist access to the privatized Graph API Data were ones who either agreed to purchase hundreds of thousands of dollars in unrelated mobile ads, were friends of Zuckerberg, Sandberg or other Facebook executives, or provided other valuable consideration, **such as intellectual property or data**, to Facebook.” 5AC, ¶¶ 6, 167.

Your next piece of “evidence” fares no better. You contend that Styleform’s allegation that Facebook paid a public relations firm to “disseminate this fraudulent pro-privacy narrative” relies on confidential materials to mischaracterize the PR firm’s work for Facebook. Miller Letter, at 2 (Styleform Complaint, ¶ 165). Again, the public 5AC undermines your accusation entirely: “Zuckerberg and the Conspiring Facebook Executives directed their public relations team **to feed reporters false information** and in certain cases drafted reporters’ stories themselves in order **to disseminate this fabricated narrative** among the public and Developer community.” 5AC, ¶ 129.

Finally, you contend that confidential information is the “only possible source” for Styleform’s allegation that Facebook executives stopped providing a level competitive playing field for developers in 2009, but concealed this decision from them. Miller Letter, at 3. To conclude that confidential information is the “only possible source” for this allegation requires willful blindness to numerous allegations in the 5AC. The complaint alleges repeatedly that Defendants failed to operate “a level competitive playing field” and “made and directed Facebook employees to make false statements and

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<sup>1</sup> See <https://www.wsj.com/articles/facebooks-restrictions-on-user-data-cast-a-long-shadow-1442881332>.



to maliciously suppress material facts from at least 2009 through 2015.” 5AC, ¶¶ 24-27. Further, the 5AC cites numerous material misrepresentations specifically from 2009 as evidence of this claim. 5AC ¶¶ 63-64, 102.

Moreover, Styleform cites public testimony from the deposition of Ali Partovi in the Six4Three action as evidence of this allegation that you remarkably claim can only have been generated from a confidential source. Styleform Complaint ¶ 95-96. Partovi testified that “Facebook’s senior executive in charge of Platform told him in a meeting in 2009 that if iLike did not sell to Facebook for a price much lower than its market value at the time, then Facebook would shut iLike down and destroy its business.” *Id.* Partovi’s testimony, which is clear and convincing evidence of the allegation you claim could only have come from a confidential source, is cited at length in the complaint. *Id.* Facebook elected *not* to move to seal this testimony in the Six4Three action.

Our client is entitled to plead its claims with specificity and your attempt to intimidate and prevent our client from doing so is not well taken. This is particularly necessary in light of Facebook’s consistent arguments before the Court in the Six4Three action. Since April 2015, Facebook has contended that Six4Three has failed to plead its claims with any of the requisite particularity to survive demurrer. For instance, in the Ancillary Defendants’ Demurrer to the 5AC, filed on May 3, 2018, Defendants argued:

Six4Three's fraud claims lack factual support as to the Ancillary Defendants. Starting with concealment, the requirement that fraud must be pleaded with specificity applies equally to a cause of action for fraud and deceit based on concealment. Also, to plead tort liability based on false or incomplete statements, the pleader must set forth at least the substance of those statements. Intentional misrepresentation also must be pleaded with specificity. To meet this requirement, the complaint must plead facts that show how, when, where, to whom, and by what means the representations were tended.... Six4Three fails to allege the elements of fraud--negligent or otherwise--with any specificity. With respect to Mr. Cox, Six4Three alleges that he was indirectly responsible for unidentified misrepresentations to an unidentified audience over the course of six years. There is no specificity as to when, where, to whom, or by what means the alleged misrepresentations were made.... The allegations against Mr. Olivan fare no better. There are no allegations that Mr. Olivan made or directed any specific misrepresentations or omissions at all; rather, Six4Three accuses him, at an unidentified time and place, of directing the Platform team to shut down applications.... Finally, without identifying any specific misrepresentations or concealment, Six4Three accuses both Mr. Vernal and Mr. Sukhar of serving as the "front man" for the scheme. Even if Six4Three could plead specific facts against the Ancillary Defendants individually, Six4Three fails to plead a conspiracy to commit fraud. Six4Three never alleges that the Ancillary Defendants had actual knowledge that a tort was planned and concurred in the plan with knowledge of the unlawful purpose—there is no where, when, or how as



to the Ancillary Defendants supposed agreement to some scheme, let alone specificity as to how they knowingly carried it out together. Ancillary Defendants' Demurrer to the 5AC, filed May 3, 2018, at 13-14 (citations and quotations omitted).

Facebook cannot intimidate my client against alleging violations of law with specificity and then cash the check of that intimidation tactic to prevail on demurrer or motion for summary judgment precisely because my client was prevented from alleging the particularities of the conduct, damage and harm caused by Defendants. This intimidation tactic is far outside the bounds of professional decorum and has no basis in the law.

Thus, regarding your requests: (1) we will not be withdrawing the Styleform Complaint; (2) we have adequately identified all documents relied upon in drafting the Styleform Complaint; and (3) we decline to identify all individuals and entities to whom the public complaint has been distributed.

Very truly yours,  
  
David S. Godkin

DSG:cam

cc: Joshua Lerner, Esq. (By email)  
Sonal Mehta, Esq. (By email)  
Catherine Kim, Esq. (By email)  
Service-Six4Three (By email)  
Stuart G. Gross, Esq. (By email)  
James E. Kruzer, Esq. (By email)



# **EXHIBIT 5**

**From:** ComplexCivil <[complexcivil@sanmateocourt.org](mailto:complexcivil@sanmateocourt.org)>

**Date:** November 19, 2018 at 6:25:21 PM EST

**To:** ComplexCivil <[complexcivil@sanmateocourt.org](mailto:complexcivil@sanmateocourt.org)>, Stuart Gross

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SIX4THREE <[SERVICE-SIX4THREE@durietangri.com](mailto:SERVICE-SIX4THREE@durietangri.com)>

**Subject:** Six4Three v. Facebook (CIV533328) - Request for Ex Parte Date

Today, Department 23 received a voicemail from Facebook's counsel requesting a date on an ex parte for expedited briefing on a motion for sanctions and contempt.

Department 23 is dark on Wednesday (11/21) and given its docket, Facebook's ex parte application will be ruled on the papers. Therefore,

- Facebook shall file and serve by email its ex parte application and supporting papers no later than Monday (11/26) at 12 pm.
- Any opposition or response shall be filed and served by email no later than 11:59:59 pm on Wednesday (11/28).
- Courtesy copies are to be delivered to Department 23 within one day of filing.
- There will be no appearances on this ex parte application.

Rebecca Huerta

Clerk to the Honorable V.Raymond Swope

Department 23

Superior Court of San Mateo County